

**GUJARAT AUTHORITY FOR ADVANCE RULING,**  
**GOODS AND SERVICES TAX,**  
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,  
AHMEDABAD – 380 009.



ADVANCE RULING NO. GUJ/GAAR/R/42/2020  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/35)

**Date: 30.07.2020**

Name and address of the applicant	:	M/s. Shiroki Technico India Pvt. Ltd., Unit 4A, Plot No.28-45, GIDC-Mandal Industrial Estate (Japanese Industrial Zone) Vithalapur, Ta- Mandal, Ahmedabad-382120.
GSTIN of the applicant	:	24AAFCT0104J1ZS
Date of application	:	03.06.2019.
Clause(s) of Section 97(2) of CGST /GGST Act, 2017, under which the question(s) raised.	:	(a)Classification of any goods or services or both;
Date of Personal Hearing	:	02.07.2020(Through Video Conferencing)
Present for the applicant	:	Shri Onkar Sharma, Advocate

### **B R I E F F A C T S**

The applicant M/s. Shiroki Technico India Pvt. Ltd. vide their application for Advance Ruling has submitted that they are mainly engaged in the business of production and manufacture of seat devices, window regulators and other allied components necessary for functioning of seats and they sell the manufactured parts to seat makers who affix the parts into the seats and thereafter the seat is affixed to the motor vehicle; that the specific product which is the matter of classification in the present application is ‘seat adjuster’ which is manufactured by the applicant and have submitted a diagram of the seat adjuster. The applicant has submitted the specific functions which are performed by the ‘seat adjuster’ as under:

- Seat adjuster helps the driver and co-passenger to get into the most comfortable leg position inside the car by using it to move the seat forwards and backwards as per their convenience to maintain safe posture and position while driving.
- It helps in adjusting the position of the seat.
- Additionally, ‘seat adjuster’ contain necessary safety features to protect the occupants in case of a collusion/accident.
- Further, the major impact load in a collision is transferred through the ‘seat adjuster’, so it must be ensured that the mechanism has adequate strength to withstand the load because it plays an important role in protecting the car driver and co-passenger in the event of a crash. The ‘seat adjuster’ needs to be carefully designed, manufactured and fitted in way to meet the properties of a good car seat besides an attractive style.

**2.** The applicant has stated that prior to implementation of the Goods and Services Tax, they used to classify ‘seat adjuster’ under HSN 9401 and discharged applicable excise duty on the same and the specific HSN is mentioned below:

Tariff item	Description of Goods	Unit	Rate of Duty
9401	Seats (other than those of heading 9402, whether or not convertible into beds and parts thereof.		
94019000	Parts	U	12.5%

**2.1** The applicant has further stated that even after the implementation of Goods and Service Tax (“GST”), the applicant classified ‘seat adjuster’ under the same HSN 9401 at Serial No. 211 under Schedule IV of Notification No.1-Central Tax (Rate) dated 28.06.2017 (hereinafter referred as “Notification No.1”). The applicable rate of CGST was 14% and an equivalent rate of GGST was also payable. The cumulative rate of CGST/GGST came to be 28%. However, the rates of goods under CGST underwent a change *vide* Notification No.41-Central Tax (Rate) dated 14.11.2017 (hereinafter referred as “Notification No.41”) wherein the rates of various goods were reduced pursuant to the recommendations of Goods and Services Tax Council (“GST Council”) and the rate of ‘seat adjuster’ was reduced from 14% to 9%. A new entry at Serial No. 435A was inserted in Notification No.1 to give effect to the reduced rate of tax. The entries post and pre amendment are tabulated herein below:

Sl.No	Chapter/Heading/sub-heading/Tariff Item	Description of Goods	CGST Rate
211	9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof	14%

Sl.No	Chapter/Heading/sub-heading/Tariff Item	Description of Goods	CGST Rate
435A	9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof	9%

**2.2** Similar notifications were also issued under GGST and the effective rate of tax for ‘seat adjuster’ under HSN 9401 with effect from 14.11.2017 came to be 18%. Since the applicant was paying the tax under HSN 9401, the benefit of reduction in rate of CGST/SGST was applicable to the applicant. However, during an internal check of the processes adopted by the applicant by a third party being carried out as a routine exercise, it was pointed out that there may be a competing entry at Serial No. 170 of Notification No.1 pertaining to parts and accessories of motor vehicles which may be applicable for ‘seat adjusters’. The entry at Serial No. 170 of Notification No.1 is reproduced below for reference:

Sl.No	Chapter/Heading/sub-heading/Tariff Item	Description of goods	CGST Rate
170	8708	Parts and accessories of the motor vehicles of headings 8701 to 8705 [other than specified parts of tractors]	14%

**2.3** The applicant as a measure of caution and to avoid any steep interest liability changed the classification of ‘seat adjuster’ from HSN 9401 to HSN 8708 with effect from April 1, 2019 and paid the applicable GST from November 2017 and also paid the differential duty arising for which they have submitted a copy of the challan. However, the applicant believes that ‘seat adjuster’ is rightly classifiable under HSN 9401 and the applicable rate of CGST/GGST ought to be 9%. The applicant has also filed a letter with the jurisdictional officer on 29.05.2019 asserting their views and indicating that the payment of additional GST on account of change in classification is being made under protest and have submitted a copy of the said letter. They submitted that the present application is being preferred by the applicant to seek clarity on the appropriate classification of ‘seat adjuster’.

**3.** The applicant has further stated that the product ‘seat adjuster’ attracted a net rate of 28% (CGST+GGST) under both the competing entries under Notification no.1. The relevant entries of Notification No.1 is tabulated herein below:

S.No.	Chapter/Heading/Sub-Heading/Tariff Item	Description of Goods	Rate (%)
170	8708	Parts and accessories of the motor vehicles of headings 8701 to 8705 [other than specified parts of tractors]	14
211	9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof	14

They have stated that the applicant always classified ‘seat adjuster’ under HSN 9401 and paid the applicable tax. Notification No.1 as reproduced hereinabove was amended *vide* Notification No. 41-Central Tax (Rate) dated 14.11.2017 (“Notification No.41”) which reduced the rate of CGST with respect to Serial No.211 from 28% to 18%. Serial No. 211 was omitted and a new Serial No. 435A was inserted. The relevant portion of Notification No. 41 reads as below:

*“(C) in Schedule III-18%,-*

*(cxviii) after S. No. 435 and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -*

“435A	“9401 [other than 9401 10 00]	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof [other than seats of a kind used for aircraft]”;
-------	-------------------------------	--

Thus, the amended Notification No.1 reads as:

S.No.	Chapter/Heading/Sub-Heading/Tariff Item	Description of Goods	Rate (%)
170	8708	Parts and accessories of the motor vehicles of headings 8701 to 8705 [other than specified parts of tractors]	14
435A	9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof	9

**3.1** The applicant has stated that the product; ‘seat adjuster’ is classifiable rightly under Serial No 435A, (HSN 9401) thereby attracting CGST of 9% and SGST of 9%; that they used to clear the said product under Chapter 9401 under the erstwhile regime as well and also after the implementation of GST; that in light of Serial No. 170 wherein parts and accessories of motor vehicles are differentially treated than parts of ‘seats’, the Applicant seeks the Advance Ruling on the appropriate classification of ‘seat adjuster’ and “ to ascertain its exact tax liability. The Applicant states and submits that ‘seat adjuster’ are rightly classifiable under Serial No. 435A (HSN 9401) as the ‘seat adjuster’ is an essential and integral ‘part’ of ‘seats’ without which ‘seat’ can be rendered dysfunctional; that it is imperative to first understand the roles and the functions which are performed by ‘seat adjuster’. The key functions can be summarized as below:

- Seat Adjuster helps the driver and the passengers to get into the most comfortable position inside the car by using it to move the seat forwards and backwards as per their convenience;
- It helps in adjusting the position of the seat;
- Additionally, it also contains necessary safety features to protect the occupants in case of a collusion/accident;
- Further, it is to be noted that the major impact load in a collision is transferred through the ‘seat adjuster’, so it must be ensured that the mechanism has adequate strength to withstand the load during a crash. It needs to be carefully fitted, designed and manufactured in way to meet the properties of a good car seat besides an attractive style.

**4.** The applicant has submitted that keeping in mind the above functions, the product can be classified either under Serial No. 170 or Serial No. 435A of Notification No.1. The necessary concomitant which follows is that if ‘seat adjuster’ is classified at Serial No. 170 under Chapter 87, the applicable net rate would be 28% cumulative of CGST/GGST and if the same is classified at Serial No. 435A under Chapter 94, the applicable net rate would be 18%. The applicant has quoted the following citations to support his submission:

- (i) The applicant has stated that any taxing entry or statute/notification must be accorded a plain construction and nothing should be read into it. Reference in this regard is placed in the case of **Greatship (India) Pvt. Ltd. Vs. Commissioner of Service Tax, Mumbai-I [2015 (39) STR 754(Bom)]** wherein the Hon'ble Bombay High court held that:

*“It would thus appear that it is settled position of law that in taxing statute, the Courts have to adhere to literal interpretation. At first instance, the Court is required to examine the language of the statute and make an attempt to derive its natural meaning. The Court interpreting the statute should not proceed to add the words which are not found in the Statute. It is equally well settled that if the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. It is equally well settled that a taxing statute is required to be strictly construed. Common sense approach, equity, logic have no role to play while interpreting the taxing statute.”*

- (ii) The applicant states that keeping in mind the above principle of interpretation, the relevant entries be interpreted according to the purport and the scope of the same. For any product to classify under Chapter 94, the same has to be in the nature of 'part' of 'seats'. Hence, the connotation of the word 'part' has to be analyzed. Reference in this regard is placed in the case of **Pragati Silicons Pvt Ltd v Comm. Of Central Excise, Delhi [2007 (211) ELT 534 (SC)]** wherein while determining as to whether 'name plates' form 'part' of a motor vehicle or not; it was observed that:

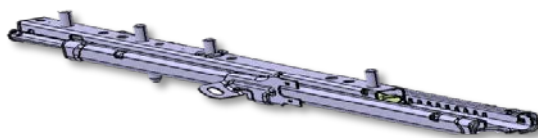
*"part is an element of a sub-assembly, not normally useful by itself and not amenable to further disassembly for maintenance purpose. In common parlance parts are used in the manufacture of the final product and without which the final product cannot be conceived of."*

- (iii) The applicant places further reliance in the case of **Collector of Customs v Hydranautics Membrane India Ltd [1994 (71) ELT 711 (Tri-Del)]** wherein the meaning of part was held to be: *"part as something essentially belonging to a larger whole, an integral portion"*.
- (iv) The applicant also places reliance on the Advance Ruling in the case of **Mazagaon Dock Shipbuilders Limited [2019 (020) GSTL 0475 (AAR)]** wherein while referring to Cambridge Dictionary, the AAR observed that:

*"Part as a noun - a separate piece of something or a piece that combines with other pieces to form the whole of something. One of the pieces that together form a machine or some type of equipment."*

**5.** The applicant has stated that on a cumulative analysis of the aforesaid judicial precedents, the fact which crystallizes is that 'part' *per se* means a portion of an equipment or a machinery which is essentially linked to the functioning of that particular equipment or machinery. In other words, 'part' is an integral element of a machinery or an equipment without which the specific product cannot function. The 'part' in question should be so inextricably be linked to the product that the same cannot be brought into any form without the 'part' in question; that the 'seat adjuster' also helps to assemble and complete the structure of 'seats'; that even though at first glance, 'seat adjuster' *per se* might not seem to be 'essential' to the completion of 'seats', but the functions it performs are indispensable for the 'seats' to work. 'Seat adjuster' allows the 'seat' to be complete in shape and perform the respective functions. Without affixing the same, a 'seat' can be rendered dysfunctional. The applicant has presented the diagrammatic representation of 'seat adjuster' to buttress the point that these components are essential 'part' of 'seats' which are indispensable for 'seats' to function.

Seat Adjuster





The applicant has submitted that the aforementioned diagrammatic presentations would show that the said product is essential for 'seats'. The 'seat adjuster' is welded/bolted into the lower cushion of the 'seat' which allows the 'seat' to come back and forth and apart from that, the seat adjuster' are also welded/bolted in a way which provides a safety cushion to the 'seat'. Any faulty way of welding the said 'parts' can render the 'seat' non-functional and therefore, the applicant submits that 'seat adjuster' is 'part' of 'seats'.

**5.1** The applicant has stated that in contradistinction, it is also imperative to analyze the meaning of the word 'accessory' to determine the appropriate classification since Chapter 87 takes within its fold 'part' and 'accessory' of motor vehicle. The Hon'ble Karnataka High Court in the case of **Supreme Motors v State of Karnataka [1987 (27) ELT 409 (Kar)]** while analyzing the meaning of the word 'accessory' observed that:

*"accessory is the supplementary or secondary to something of greater or primary importance' 'additional', 'any of several mechanical devices that assist in operating or controlling the tone resources of an organ'. 'Accessories' are not necessarily confined to particular machines for which they may serve as aids. The same item may be an accessory of more than one kind of instrument."*

The applicant submits that based on the above case laws and the actual nature of the products, what summarizes is that 'accessory' *per se* is something which are complimentary to the main product; but at the same time it is something which can be used with various equipments or machines or commodities. However, the 'seat adjuster' in question can only be used with 'seats' and nothing else. They are manufactured keeping in mind the purpose and functions of a 'seat' and are designed in a way so that they can be affixed only with 'seats'. Hence, they cannot be termed as mere 'accessory'. As a corollary, if the 'seat adjuster' in question do not qualify as 'accessory', the same has to be classified as 'part' at Serial No. 435A under Chapter 94 of Notification No.1 as amended by Notification No. 41. Thus, the applicant submits that based on the settled judicial cases and the nature of 'seat adjuster', they ought to be rightly classified under at Serial No. 435A under HSN 9401 of Notification No.1 as amended by Notification No.41. The 'seat adjuster' is an essential 'part' of 'seats' which helps the 'seats' to function properly, thereby completing it. The Applicant submits that without 'seat adjuster', 'seat' *per se* would be incomplete and therefore, the same needs to be treated as an essential 'part' of the 'seat' thereby classifiable under HSN 9401.

**6.** The applicant has submitted that on basis of the 'functional test' as well, 'seat adjuster' ought to be classified at Serial No. 435A under HSN 9401 and that as per the functional test, goods are classified in terms of the functions for which they are put to use and even though 'functional test' has a limited application, it becomes imperative in the current factual situation. The Hon'ble

Madras High Court in the case of **Sanmar Electronics Corporation Limited v UOI [2010 (252) ELT 332 (Mad)]** held that *“the goods must also be classified according to their popular meaning and also the commercial sense as well. The court has to select the meaning which is relevant to the context, in which it has to interpret the word. The functional test is also a relevant factor.”*

**6.1** The applicant places further reference in the case of **Haran D Manufacturing Company v State of Gujarat [1993 (91) STC 130 (Guj)]** wherein classification of ‘detergent soap’ was in question. Applying the ‘functional test’, the Hon’ble Court held that *“In the instant case, the term “soap” is not defined in the Act. The product sold by the applicant-dealer was known as “soap” in the particular trade, and it was also used by the consumers as a soap for washing the clothes. The true meaning of this term in the popular parlance would be flowing from its predominant use. We, therefore, hold that in interpreting the term “soap” the real test would be functional test or the test of predominant user, and there is no reason to exclude “detergent soap” from the meaning of the term soap”.*

**6.2** The applicant in light of the aforementioned precedents submits that ‘seat adjuster’ should be judged on the basis of the functions it performs. ‘Seat adjuster’ enables the adjustment of seats to give a comfortable position to the drivers and the passengers. Further, they are equipped with safety mechanism so as to provide a cushion of safety and give stability to the ‘seats’. Hence, the Applicant submits that ‘seats’ *per se* would be incomplete without the ‘seat adjuster’ in question in as much as it forms an integral part of the ‘seats’ and hence, merit classification under HSN 9401. It is stated that ‘seats’ are not be judged only on the basis of their affixing to a motor vehicle. It has to be seen as a whole and a ‘seat’ would be complete only when the products in question are affixed to a ‘seat’.

**6.3** The applicant submits that for determining the appropriate classification of a product, reference can be placed on Explanatory Notes to HSN to understand the scope and applicability of a particular Chapter. That HSN Explanatory Notes can be referred to for determining the classification of a product was observed in the case **KSE Ltd v Comm. Of Customs, Cochin [2017 (352) ELT 46 (Tri-Bang)]** wherein it was held that *“it is not disputed that the HSN explanatory notes have persuasive value. The Customs Tariff at the relevant time is fully aligned with the HSN and as such we are of the view that reference may be made to HSN for guidance as a legal aid.”* Further, in **S.Narendrakumar & Co v Commissioner of Excise, Mumbai, 2011 (268) ELT 538 (Tri-Mum)**, the Hon’ble CETSAT also held that the Explanatory Notes serve as a proper aid of interpretation and classification while reference is being made to the Tariff schedule.

**6.4** The applicant has submitted that Explanatory Notes to Chapter 94 states that *“The heading also covers identifiable parts of chairs or other seats, such as backs, bottoms and arm-rests (whether or not upholstered) with straw or cane, stuffed or sprung) and spiral springs assembled for seat upholstery.”* Further, Explanatory Note to Chapter sub-heading 9401.80 states that *“This sub-heading also covers safety seats suitable for the carriage of infants and toddlers in motor vehicles or other means of transport. They are removable and are attached to the vehicle’s seats by means of the seat belt and a tether strap.”*

**7.** The applicant has submitted that ‘seat adjuster’ forms ‘part’ of the seat. The Explanatory Notes specifically mentions that arm-rests, bottoms and backs attached to ‘seats’ are to be classified under this heading. Much like bottoms,



arm-rests and backs, the 'seat adjuster' in question also complete the 'seats' and give them a proper structure before being affixed to a vehicle. The applicant submits that in contradistinction, reference to Explanatory Notes to Chapter 87 also needs to be analyzed. Explanatory Notes to Chapter 87 cover various equipments which are affixed to a motor vehicle and it gives an exhaustive list as to what would be covered under the said Chapter. Heading 8708.21 covers safety seat belts and Heading 8708.95 covers Safety airbags which are affixed to the motor vehicle directly. The applicant submits that none of the entries therein relate to 'seats' or its 'parts'. All the equipments mentioned therein are directly affixed to the vehicle and in that sense, they are termed as 'parts' or 'accessories' to motor vehicles classifiable under Chapter 87. On the other hand, 'seat adjuster' in question are affixed to 'seats' in particular which are then affixed to a motor vehicle. Since, a specific entry is there in the statute book relating to 'seats' under Chapter 94, any 'part' of the same has to be necessarily classified under the same Heading as opposed to the general heading of chapter 87.

**7.1** The Applicant submits that it is trite in law that a specific entry prevails over general entry. Reliance in this regard is placed in the case of **AGFA India Pvt Ltd v Commissioner of Customs, Chennai [2017 (353) ELT 251 (Tri-Che)]** wherein the dispute was with regard to classification of X-ray machines under Chapter 84 and Chapter 90. Noting that Chapter 90 specifically provided for the same, the Tribunal observed that *"On the submission of Revenue and on perusal of rival entries, it is made clear that specific entry relied upon by Revenue demonstrates the nature and character of the goods to attract it to the category it serve purposes of that entry. Although end-user is not the criteria for classification, but the very character and nature of goods when subscribe to a specific entry, that prevails over a general entry for classification. Therefore the classification sought by Revenue under CTH 9022 is appropriate for which appeal is dismissed."*

**7.2** The Applicant submits that on an analysis of the Explanatory Notes, it is stated that Chapter 94 is a specific entry with respect to 'seats' and its 'parts'. Classifying an essential 'part' of the 'seat' under Chapter 87 would render Chapter 94 otiose and redundant. As explained hereinabove, Explanatory Notes to Chapter 94 covers various aspect of 'seat' and 'seat adjuster' in question by virtue of their function form an essential 'part' of the 'seats'. On the other hand, Explanatory Notes of Chapter 87 covers 'parts' of motor vehicles and there is no specific entry *per se* which covers any part of the 'seats' under Chapter 87. Hence, as a corollary, the same ought to be appropriately classified under Chapter 94 since a specific entry prevails over a general entry.

**8.** The Applicant submits that 'common parlance test' is generally the most applied test judicially to determine the appropriate classification of any product. Reference in this regard is placed in the judgment of Hon'ble Bombay High Court in the case of **Pharm Aromatic Chemicals v Municipal Corporation of Greater Bombay [1997 (95) ELT 203 (Bom)]** wherein with respect to the applicability of 'common parlance test', it was observed that:

*"The principles which govern the interpretation of items in the list of taxable goods are no more res integra. Various principles or tests have been evolved by the Supreme Court from time to time for interpretation of items of taxable goods. One of the well-known principles of interpretation is that words of everyday use must be construed not in the scientific or technical sense but as understood in the common parlance. If a statute contains a language which is*



*capable of being construed in a popular sense, such a statute should not be construed according to the strict or technical meaning of the language contained in it but it should be construed in its “popular sense”, meaning thereby the sense which people conversant with the subject matter with which the statute is dealing would attribute to it. The principles that emerge from the above interpretation can be summed up thus: Where no definition is provided in the statute for ascertaining the correct meaning of a fiscal entry, the same should be construed as understood in common parlance or trade or commercial parlance. Such words must be understood in their popular sense. The strict or technical meaning or the dictionary meaning of the entry is not be resorted to. The nomenclature given by the parties to the word or expression is not determinative or conclusive of the nature of the goods. The same will have to be determined by application of the well-settled rules or principles of interpretation which have been referred to as common parlance rule.”*

**8.1** The applicability of the common parlance test has been upheld and resorted to in various cases by the Supreme Court like **Indo International Industries v Commissioner of Sales Tax [1981 (8) ELT 325 (SC)]** and **Commissioner of Sales Tax v Macneill & Barry Ltd [1986 (23) ELT 5 (SC)]**. The applicant has submitted that applying common parlance test to the present factual scenario, it is to be analysed as to how the products in question are treated in the market. It can be said that the products in question by their very nomenclature gives the impression that the same is treated as ‘part’ of ‘seats’. Even otherwise as well, the products in question are manufactured in conjunction with ‘seats’ by the applicant. Further, the purchase orders as raised by the customers on the Applicant also classify the same under Chapter 94 only.

**8.2.** The applicant places reference in the treatment accorded to the same at an international level. In USA, the ‘seat adjuster’ in question is also classified under Chapter 94 of HSN. The same has been fortified in Ruling CLA-20T dated November 10, 2015 wherein ‘seat adjuster’ was specifically held to be part of the ‘seat’ and hence, classifiable under Chapter 94. It was held *“Thus, the car seat adjuster is an essential part of the car seat, not an accessory, and is provided for in heading 9401, HTSUS, as seats and parts thereof. Again, this office said, under GRI 3(a), heading 9401, HTSUS provides a more specific description for car seat adjusters than does heading 8708, HTSUS. Therefore, the fully assembled car seat adjusters are classifiable under subheading 9401.90.10, HTSUS, as parts of seats of a kind used for motor vehicles.”* The Applicant submits that at an international level as well, the ‘seat adjuster’ are is classified as ‘part’ of ‘seats’. From an analysis of the cumulative factors surrounding the same, the Applicant submits that by virtue of common parlance test too, ‘seat adjuster’ is classifiable at Serial No. 435A under Chapter 94 of Notification No.1.

**8.3** The Applicant further submits that the last test which can be applied for classification is the usage test, i.e. the products in question has to be classified as per their specific use in the market. Reference in this regard is placed in the case of **MSRTC’s Central Workshop v Commissioner of Central Excise, Aurangabad [2012 (282) ELT 101 (Tri-Mum)]** wherein the classification of components of bus bodies was in question. Relying on the fact that the specific components could only be used in bus bodies, the Hon’ble Tribunal held that:

*“We find that in the present case before us, the components of bus bodies are meant for specific use in buses made by the appellant for*

*repair and maintenance purposes. These components cannot be used in other buses made by other bus body builders. There is no evidence from the Revenue to show that the components are bought and sold in the market as commodity. The Commissioner's finding that merely because goods are not bought and sold in the market does not make them non-marketable cannot be sustained in absence of any evidence from Revenue."*

**8.4** Accordingly, the same was classified under Chapter 94 considering the specific use of the same. A similar view basis the specific use of components was also taken in the cases of **Rotomatic Containers Pvt Ltd v Commissioner of Central Excise, Nashik [2010 (10) GSTL 568 (Tri-Mum)]** and **Commissioner of Central Excise, Nagpur v Duraweld Wear Plates Pvt Ltd [2009 (234) ELT 491 (Tri-Mum)]**. Based on the above, the applicant submits that 'seat adjuster' is also used only in conjunction to the 'seats'. The same cannot be used otherwise apart from being affixed to 'seats' which are in turn affixed to a motor vehicle. Considering the specific use of the same in assembling of 'seats', it is submitted that the same ought to be classified at Serial No. 435A under Chapter 94.

**9.** The applicant has concluded his submission by stating that 'seat adjuster' rightly merit classification under Chapter 9401 at Serial No. 435A to Notification No. 1 as amended by Notification No. 41. Therefore, the said product ought to be taxable at 9% CGST and 9% GGST. He has put forward the following question on which advance ruling is required:

*"Whether the product namely 'seat adjuster' merits classification under Serial No.170 as per Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 or under Serial No.435A of Notification No.1/2017-Central Tax(Rate) dated 28.06.2017 as amended by Notification No.41/2017-Central Tax(Rate) dated 14.11.2017?"*

## **DISCUSSION & FINDINGS**

**10.** We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative Shri Omkar Sharma at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

**11.** At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 similar provisions of the GGST Act.

**12.** On going through the submission given by the applicant, we find that they are engaged in the manufacture and supply of seat devices, window regulators and other allied components of motor vehicles. The product 'seat adjuster' manufactured by them is used in the seats of motor vehicles. As per their submission the seat adjuster helps the driver and co-passenger to get into the most comfortable leg position inside the car by using it to move the seat forwards and backwards as per their convenience to maintain safe posture and position while driving. We find that the issue in this application is with regard to the classification of 'seat adjuster'. The contention of the applicant is that their above product is an integral part of the seat and should therefore be classified under Sub-heading 9401 under the head "Seats ( other than those of

heading 9402), whether or not convertible into beds and parts thereof.” They have also stated that in the pre-GST era also, they classified the said product under Sub-heading 9401 only. They have further stated that even after the implementation of Goods and Service Tax (“GST”), the applicant classified ‘seat adjuster’ under the same HSN 9401 at Serial No. 211 under Schedule IV of Notification No.1-Central Tax (Rate) dated 28.06.2017, wherein the applicable rate of GST was 28%(14% SGST + 14% CGST). However, after amendment of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 vide Notification No.41-Central Tax (Rate) dated 14.11.2017, the rate of ‘seat adjuster’ was reduced from 14% to 9% vide insertion of a new entry at Serial No. 435A in Schedule-III of the said notification.

**12.1** The applicant has further submitted that during an internal check of the processes adopted by the applicant by a third party being carried out as a routine exercise, it was pointed out that there may be a competing entry at Serial No. 170 of Schedule-IV of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 pertaining to parts and accessories of motor vehicles, which may be applicable for ‘seat adjusters’. Under the said entry, the rate of GST is 28% (14% SGST + 14% CGST). The applicant, as a measure of caution and to avoid any steep interest liability, changed the classification of ‘seat adjuster’ from HSN 9401 to HSN 8708 with effect from April 1, 2019 and paid the applicable GST from November 2017 and also paid the differential duty arising for which they have submitted a copy of the challan. However, the applicant believes that ‘seat adjuster’ is rightly classifiable under HSN 9401 and the applicable rate of CGST/GGST ought to be 9%. The applicant has also filed a letter with the jurisdictional officer on 29.05.2019 asserting their views and indicating that the payment of additional GST on account of change in classification is being made under protest and have submitted a copy of the said letter. They submitted that the present application is being preferred by the applicant to seek clarity on the appropriate classification of ‘seat adjuster’. The applicant has put forward the following question on which advance ruling is required:

*“Whether the product namely ‘seat adjuster’ merits classification under Serial No.170 as per Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 or under Serial No.435A of Notification No.1/2017-Central Tax(Rate) dated 28.06.2017 as amended by Notification No.41/2017-Central Tax(Rate) dated 14.11.2017?”*

**13.** In order to determine the classification of ‘seat adjuster’ by the applicant, we will be required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 containing the headings, sub-headings as well as the rates of Central Tax GST applicable to various goods, which are covered under 6 schedules, as under:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI

Further, Explanation (iii) and (iv) of the said Notification reads as under:

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

**14.** From the submission of the applicant, since it can be seen that they have time and again stressed on the point that their product 'seat adjuster' is correctly classifiable under Heading 9401 and not under Heading 8708 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), we need to examine each of the Headings in detail in order to find out under which heading the aforementioned would be correctly classifiable. Let us first examine the Heading 8708 first.

**15.** In order to examine the aspect as to whether the product 'seat adjuster' finds mention under Heading 8708, we would be required to go through the said Heading as appearing in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), which reads as under:

**8708 PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705**

8708 10 - Bumpers and parts thereof :

8708 10 10 --- For tractors

8708 10 90 --- Other

-- Other parts and accessories of bodies  
(including cabs) :

8708 21 00 -- Safety seat belts

8708 29 00 -- Other

8708 30 00 - Brakes and servo-brakes; parts thereof

8708 40 00 - Gear boxes and parts thereof

8708 50 00 -Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof

8708 70 00 - Road wheels and parts and accessories thereof

8708 80 00 - Suspension systems and parts thereof  
(including shock absorbers)

- Other parts and accessories:

8708 91 00- Radiators and parts thereof –

8708 92 00- Silencers (mufflers) and exhaust pipes; parts thereof

8708 93 00 -- Clutches and parts thereof

8708 94 00 --Steering wheels, steering columns and steering boxes; parts thereof

8708 95 00 -- Safety airbags with inflater system; parts thereof

8708 99 00 -- Other

**15.1** We find that Heading 8708 of the First Schedule to the Customs Tariff Act covers "*Parts and accessories of the motor vehicles of headings 8701 to 8705*". Motor vehicles covered under the headings 8701 to 8705 are described hereunder:

- (i) 8701- Tractors (other than tractors of heading 8709).
- (ii) 8702-Motor vehicles for the transport of ten or more persons, including the driver.
- (iii) 8703-Motor cars and other motor vehicles principally designed for the transport of persons (other than those of headings 8702), including station wagons and racing cars.

- (iv) 8704-Motor vehicles for the transport of goods.
- (v) 8705-Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixers lorries, spraying lorries, mobile workshops, mobile radiological units)

**15.2** Next, we need to find out as to where the Heading 8708 appears in Notification No.1/2017-Central Tax (Rate) dated 28.06.2017. Heading 8708 appears at Sr.No.170 in Schedule-IV of the said notification, on which GST applicable is 28% (14% SGST + 14% CGST). It reads as under:

Sl.No	Chapter/Heading/sub-heading/Tariff Item	Description of goods
170	8708	Parts and accessories of the motor vehicles of headings 8701 to 8705 [other than specified parts of tractors]

**15.3** Next, we need to find out the definitions of ‘parts’ and ‘accessories’. As per dictionary, parts and accessories would be defined as under:

Parts: An amount or section which, when combined with others, makes up the whole of something.

Accessories: A thing which can be added to something else in order to make it more useful, versatile, or attractive.

As can be seen from the above, ‘parts’ are an amount or section which when combined with others, makes up the whole of something. In other words, a 'part' is an essential component of the whole without which the whole cannot be complete or cannot function. Further, as per definition, ‘accessories’ are different from parts, as it is not an essential component of the whole without which the whole cannot be complete or function, but it is a thing which can be added to something else in order to make it more useful, versatile, or attractive. Based on the submission of the applicant as well as the image of the ‘seat adjuster’ submitted by the applicant, we find that it is essentially in the nature of rails made out of iron and steel which are affixed/welded/bolted into the lower cushion of the ‘seat’ which helps the driver or passenger to slide the seat back and forth, as per his convenience/requirement and comfort, with the operation of a lever forming part of the rail assembly. However, it cannot be considered a ‘part’ of the seat as stated by the applicant as it is not an essential component of the seat i.e. the seat is complete and fully functional even without it. We find that the ‘seat adjuster’ merely helps in the adjustment of the seat i.e. moving it back and forth as per requirement/convenience and merely improves the efficiency and convenience of the seat but does not form a part of the seat. Thus it can be concluded that the ‘seat adjuster’ is just an ‘accessory’ which improves the efficiency and convenience of the seat. Since the ‘seat adjuster’ is an accessory of the seat which is an essential part of the motor vehicle, it would be aptly covered under the Sub-heading 87089900 as ‘accessory’ of the motor vehicle under the head “Parts and accessories of the motor vehicles”.

**15.4** In this regard, the applicant has submitted that reference is also to be made to Explanatory Notes to Chapter 87, which covers various equipments affixed to a motor vehicle and it gives an exhaustive list as to what would be covered under the said Chapter; that none of the entries therein relate to ‘seats’ or its ‘parts’ and all the equipments mentioned therein are directly affixed to the vehicle and in that sense, they are termed as ‘parts’ or ‘accessories’ to motor vehicles classifiable under Chapter 87; that since the ‘seat adjuster’ in

question is affixed to 'seats' in particular which are then affixed to a motor vehicle and since a specific entry is there in the statute book relating to 'seats' under Chapter 94, any 'part' of the same has to be necessarily classified under the same heading as opposed to the general heading of chapter 87. In this regard, we have also gone through the explanatory notes to 'Harmonized Commodity Description and Coding System' pertaining to Chapter 87 and found that it covers various equipments which are affixed to a motor vehicle and it gives an illustrative list as to what would be covered under the said Chapter. The same reads as under:

*"This heading covers parts and accessories of the motor vehicles of heading 87.01 to 87.05, provided the parts and accessories fulfil both the following conditions:*

- (i) They must be identifiable as being suitable for use solely or principally with the above mentioned vehicles;*  
*and*
- (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).*

*Parts and accessories of this heading **include:***

- (A) Assembled motor vehicle chassis-frames (whether or not fitted with wheels but without engines) and parts thereof (side-members, braces, cross-members; suspension mountings; supports and brackets for the coachwork, engine, running-boards, battery or fuel tanks, etc.)*
- (B) Parts of bodies and associated accessories, for example, floor boards, sides, front or rear panels, luggage compartments etc.; doors and parts thereof; bonnets (hoods); framed windows, windows equipped with heating resistors and electrical connectors, window frames; running-boards; wings (fenders), mudguards; dashboards; radiator cowlings; number-plate brackets; bumpers and over-riders; steering column brackets; exterior luggage racks; visors; non-electric heating and defrosting appliances which use the heat produced by the engine of the vehicle; safety seat belts designed to be permanently fixed into motor vehicles for the protection of persons; floor mats (other than of textile material or unhardened vulcanised rubber), etc. Assemblies (including unit construction chassis-bodies) not yet having the character of incomplete bodies e.g. not yet fitted with doors, wings (fenders), bonnets (hoods) and rear compartment covers, etc., are classified in this heading and not in heading 87.07.*
- (C) Clutches (cone, plate, hydraulic, automatic, etc., but not the electro-magnetic clutches of heading 85.05), clutch casings, plates and levers, and mounted linings.*
- (D) Gear boxes (transmissions) of all types (mechanical, overdrive, preselector, electro-mechanical, automatic, etc.); torque converters; gear box (transmission) casings; shafts (other than internal parts of engines or motors; gear pinions; direct-drive dog-clutches and selector rods, etc.*
- (E) Drive-axles, with differential; non-driving axles (front or rear); casings for differentials; sun and planet gear pinions; hubs, stub-axles (axle journals), stub-axle brackets:*
- (F) Other transmission parts and components (for example, propeller shafts, half-shafts; gears, gearing; plain shaft bearings; reduction gear assemblies; universal joints). But the heading excludes internal parts of*

*engines, such as connecting-rods, push-rods and valvelifters of heading 84.09 and crank shafts, cam shafts and flywheels of heading 84.83.*

- (G) Steering gear parts (for example, steering column tubes, steering track rods and levers, steering knuckle tie rods; casings; racks and pinions; servo-steering mechanisms).*
- (H) Brakes (shoe, segment, disc, etc.) and parts thereof (plates, drums, cylinders, mounted linings, oil reservoirs for hydraulic brakes, etc.); servo-brakes and parts thereof.*
- (I) Suspension shock-absorbers (friction, hydraulic etc.) and other suspension parts (other than springs), torsion bars.*
- (J) Road wheels (pressed steel, wire-spoked, etc.), whether or not fitted with tyres; tracks and sets of wheels for tracked vehicles; rims, discs, hub-caps and spokes.*
- (K) Control equipment, for example, steering wheels, steering columns and steering boxes, steering wheel axles; gear change and hand-brake levers; accelerator, brake and clutch pedals; connecting-rods for brakes, clutches.*
- (L) Radiators, silencers (mufflers) and exhaust pipes, fuel tanks etc.*
- (M) Clutch cables, brakes cables, accelerator cables and similar cables, consisting of a flexible outer casing and a moveable inner cable. They are presented cut to length and equipped with end fittings.*
- (N) Safety airbags of all types with inflator system (e.g. driver-side airbags, passengers-side airbags, airbags to be installed in door panels for side-impact protection or airbags to be installed in the ceiling of the vehicle for extra protection for the head) and parts thereof. The inflator systems include the igniter and propellant in a container that directs the expansion of gas into the airbag. The heading excludes remote sensors or electronic controllers, as they are not considered to be parts of the inflator system.*

*The heading does not cover hydraulic or pneumatic cylinders of heading 84.12.”*

**15.5** One thing which we would like to discuss here is that explanatory notes to the heading 8708 contains only an illustrative list of the parts and accessories covered under that heading **and not an exhaustive list as stated by the applicant**. Further, just because this illustrative list may or may not contain any entry relating to any specific item (in the instant case ‘seat’) or its parts or accessories, it does not necessarily mean that the parts or accessories, which are not covered in the ambit of this list, cannot be or should not be classified under the said heading. From a bare reading of the Chapter Heading 8708.00, it can be derived that it covers parts and accessories of motor vehicles and this chapter heading is wide enough in its scope so as to cover all accessories of motor vehicles which would also cover accessories to seats. We are therefore of the opinion that the parts and accessories of motor vehicles, subject to relevant conditions, which are not covered under any of the Sub-headings starting from 87081010 to 87089500 under the Heading 8708 would be invariably covered under the Sub-heading 87089900. In the instant case, heading 8708 covers “parts and accessories of the motor vehicles of headings 87.01 to 87.05 (other than specified parts of tractors). Further, as discussed



earlier, 'seat adjuster' does not form a part of the seat of a motor vehicle but is just an 'accessory' of the seat and since the seat is an essential part of the motor vehicle, the said accessory automatically becomes an accessory of the motor vehicle.

**15.6.** We also find that as per the explanatory notes to the heading 8708, this heading covers those parts and accessories of the motor vehicles of heading 87.01 to 87.05, which fulfil the two conditions mentioned in para 15.3 above. In this regard, it is to mention that on the basis of the submission given by the applicant with regard to the 'seat adjuster' along with its picture, specific functions and uses, it can be derived that the 'seat adjuster' is an accessory, which can be used solely and principally in the seats of the motor vehicles only. Motor vehicles are covered under headings 87.01 to 87.05 of Chapter 87 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as listed in para 15.1 above. Thus the first condition is satisfied. We have also gone through the list of 'parts and accessories' excluded as per the provisions of the Explanatory Notes to Section XVII to the 'Harmonized Commodity Description and Coding System' and found that 'seat adjuster' does not find mention in the same. Therefore the second condition is also satisfied. Therefore, since both the conditions have been satisfied, it can be safely concluded that the 'seat adjuster' is covered under the heading 8708 only.

**15.7.** In this regard, we would like to refer to a judgement of the Hon'ble Supreme Court dated 27.03.2008 in the case of Commissioner of Central Excise v/s Insulation Electrical (P) ltd. in the case of Civil Appeal No.5943 of 2002 filed by the Commissioner of Central Excise, Delhi against Final Order No.140/2002-B passed by the Appellate Tribunal of New Delhi in Appeal No.E/2199/2001/B, whereby the Tribunal relying upon a judgment of the High Court of Karnataka in the case of Supreme Motors v. State of Karnataka has allowed the appeal filed by the assessee. The fact of the matter was that M/s Insulation Electrical (P) ltd. was engaged in the manufacture of Rail Assembly front Seat (Omni), Adjuster Assembly slider seat, YF-2, Rear Back Lock Assembly and 1000 CC Rear Back Lock Assembly. It submitted its classification list in the year 1986 under Central Excise Tariff Act, 1985 (for short 'the tariff Act') classifying its products under chapter heading 8708.00 as parts and accessories of motor vehicles which attracted the 15% rate of duty. The classification list filed by the assessee was approved. Acting on specific information that the assessee was short paying the excise duty by classifying its products as motor vehicles parts and accessories, the factory premises of the assessee was visited by a team of officers of Central Excise MOD-III on 8.12.1998. They physically verified the items being manufactured by the assessee. As per the statement of the authorized signatory of the assessee, they were supplying Rail Assembly Frost Seat Adjuster and Assembly Slider Seat to M/s. Bharat Seats Ltd. and M/s. Krishna Maruti Ltd. which were manufacturing car seats falling under chapter heading 9401.00 and were supplying to M/s. Maruti Udyog Limited. After completion of investigation, two show cause notices dated 4.2.1999 and 5.7.1999 were issued to the assessee demanding Rs.9,50,995/- on the ground that they had misclassified the product as parts and accessories of motor vehicles under Chapter heading 8708 paying 15% excise duty whereas it was correctly classifiable under Chapter Heading No.9401 on which excise duty payable was 18%. The same were confirmed by the adjudicating authority vide order dated 24.11.1999. The said order was upheld by the Commissioner of Central Excise(Appeals), Delhi. Assessee thereafter filed an appeal before the Tribunal. The Tribunal, by the impugned order, set aside the orders of the authorities below holding that the products manufactured by the assessee are classifiable under chapter heading 8708.00 as claimed by the assessee and not under chapter heading 9401.00 as

put forth by the revenue. The Tribunal came to the conclusion that the items manufactured by the assessee are only adjuncts, additions to the seats for the better utilization of the seats for comfort and convenience of the passengers and they are not essential components or parts of seats. That the seats are complete in themselves without these mechanisms and therefore do not merit classification as parts of seats under Chapter 9401.00. The Tribunal relying upon a judgment of this Court in the case of Mehra Brothers v/s. Joint Commercial Officer reported in 1991 (51) ELT 173(SC) held that the products manufactured by the assessee merited classification under chapter heading 8708.00 as parts and accessories of motor vehicles. Aggrieved with the said order of the Tribunal, the Commissioner of Central Excise, Delhi filed an appeal with the Hon'ble Supreme Court of India. After hearing both the sides, the Hon'ble Supreme Court ruled as under:

*“From the pleadings of the parties as well as the statements made before us, the point which can be culled out for adjudication is as to whether the products manufactured by the assessee are the integral parts of the seats, as put forth by the department and classifiable under chapter heading 9401.00 or the same are parts and accessories of motor vehicles, as claimed by the assessee and classifiable under chapter heading 8708.00. Before coming to a conclusion, it would be appropriate to look at the two rival entries falling under chapter Headings 8708 and 9401 of the Act. The same are reproduced below for convenience of discussion:*

<i>Heading No.</i>	<i>Sub-heading No.</i>	<i>Description of goods</i>	<i>Rate of duty</i>
87.08	8708.00	<i>Parts and accessories of the motor vehicles of heading Nos.87.01 to 87.05</i>	15%
94.01	9401.00	<i>Seats[other than those of heading No.94.02], whether or not convertible into beds and parts thereof.</i>	18%

*From the bare reading of the two sub-headings, reproduced above, it is clear that Chapter Heading 8708.00 covers parts and accessories of motor vehicles and this chapter heading is wide enough in its scope so as to cover all accessories of motor vehicles whereas Chapter heading 9401.00 covers all type of seats and parts thereof.*

*This is an admitted position that the assessee was supplying the products manufactured by it directly to M/s Maruti Udyog Limited which manufactures cars and not seats. M/s Maruti Udyog Limited has given a specific part number to the goods in question and issued purchase orders in the name of the assessee. However, later on, only invoicing pattern was changed for some goods wherein the assessee received purchase orders directly from M/s Maruti Udyog Limited but invoices were raised to M/s Krishna Maruti Udyog Limited and M/s Bharat Seats Limited just for the sake of convenience and economy. The payment for the same was received directly from M/s Maruti Udyog Limited. Merely supplying the material through M/s Bharat Seats Limited and M/s Krishna Maruti Limited which are manufacturing seats classifiable under chapter heading 9401.00 does not lead to the conclusion that the products in question fall under chapter heading 9401.00.*

*In Mehra Brothers(supra), this court observed in para 6 as follows:*

6. *In Supreme Motors v. State of Karnataka* case(supra), the Karnataka High Court has taken different view. It held that the car seat covers, at best could make the seat more comfortable, but do not serve as aids to the vehicle as a whole, and therefore, they must fall outside the ambit of Entry 73 of the Second Schedule to the Karnataka Sales Tax Act, 1957 and was not exigible to sales tax at 13 per cent. Undoubtedly this ratio would help the appellant. The learned judges laid emphasis thus:--

*Every part is useful to the car for its effective operation. Likewise should be the aid of other accessories in order to fall within the said entry. The accessory to a part which has no convenience of effectiveness to the entire car as such cannot in our opinion fall within Entry 73.*

*To the same effect are the judgments of this Court in the case of Pragati Silicons Pvt. Ltd. v. Commissioner of Central Excise, Delhi reported in 2007 (211) ELT 534(SC) and Annapurna Carbon Industries Co. v. State of Andhra Pradesh (1976) 2 SCC 273. After considering in detail, the difference between the 'accessories' and 'parts', this Court in the case of *Pragati Silicons(supra)* came to the conclusion that 'accessory' is something supplementary or subordinate in nature and need not be essential for the actual functioning of the product.*

*Chapter 9401 covers all types of seats and not only the seats of a car and a seat is complete even without the rail assembly front seat, adjuster/assembly slider seat and rear back lock assembly. They are not essential parts of the seat. Chapter heading 9401 covers only the parts of seats and not accessories to the seats. A 'part' is an essential component of the whole without which the whole cannot function.*

*We agree with the view taken by the Tribunal that the products manufactured by the assessee cannot be the 'parts' of seats, as claimed by the revenue. Chapter heading 8708 covers both the 'parts' as well as 'accessories'. The items manufactured by the assessee are only adjuncts. These are to be affixed on the floor of motor vehicles. When seats are affixed on these rails, seats can slide back and forth with the operation of a lever forming part of other rail assembly front seat adjuster. This enables the driver or the passenger, to adjust the position of the seat to suit his comfort and convenience. These are merely to improve the efficiency and convenience of the seat and does not form part of the seat. The seats are complete in themselves without these mechanisms and therefore it cannot be held that the parts manufactured by the assessee merit classification under chapter 9401. Rather the same would be accessories to the motor vehicle as claimed by the assessee and would merit classification under chapter heading 8708, because they are fitted in the motor car for adjustment of the seats for the convenience and comfort of the passengers. The Rail Assembly front seat (Omni), Adjuster/assembly slider seat, YE-2 rear back lock assembly and 1000cc rear back lock assembly being manufactured by the assessee can at best be termed as accessories to the motor vehicle for better convenience of the passengers/drivers travelling in the car.*

*For the reasons stated above, we do not find any merit in the appeal filed by the revenue and dismiss the same with no order as to costs."*

**15.8** Therefore, in view of the facts discussed in the earlier paras and also by relying on the above judgement of the Hon'ble Supreme Court of India, we conclude that the product 'seat adjuster' manufactured and supplied by the applicant is correctly classifiable under Heading No.8708 of the First Schedule

to the Customs Tariff Act, 1975 (51 of 1975) and is covered under Entry No.170 of Schedule-IV of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017.

**16.** Next, we are required to examine the aspect as to whether the product 'seat adjuster' finds mention under the Heading 9401, for which we would be required to go through the said heading as appearing in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), which reads as under:

**9401 SEATS (OTHER THAN THOSE OF HEADING 9402), WHETHER OR NOT CONVERTIBLE INTO BEDS, AND PARTS THEREOF**

9401 10 00 - Seats of a kind used for aircraft

9401 20 00 - Seats of a kind used for motor vehicles

9401 30 00 - Swivel seats and variable height adjustment

9401 40 00 - Seats other than garden seats or camping equipment, convertible into beds

- Seats of cane, osier, bamboo or similar materials:

9401 51 00 -- Of bamboo or rattan

9401 59 00 - Other

- Other seats, with wooden frames :

9401 61 00 - Upholstered

9401 69 00 - Other

Other seats, with metal frames :

9401 71 00 - Upholstered

9401 79 00 - Other

9401 80 00 - Other seats

9401 90 00 - Parts

Further, on going through the details appearing in Heading 9401 of the First Schedule of the Customs Tariff, 1975 (51 of 1975), it is seen that parts of seat appear at Sub-heading 9401 9000. The applicant vide his submission has put forward the following grounds in support of his contention that the product 'seat adjuster' is a 'part' of seat and is classifiable under Heading 9401:

- (i) The 'seat adjuster' are rightly classifiable under Serial No. 435A (HSN 9401) as the 'seat adjuster' is an essential and integral 'part' of 'seats' without which 'seat' can be rendered dysfunctional, which can be understood on the basis of the roles and functions which are performed by 'seat adjuster'.
- (ii) The 'seat adjuster' also helps to assemble and complete the structure of 'seats' and even though at first glance, 'seat adjuster' *per se* might not seem to be 'essential' to the completion of 'seats', the functions it performs are indispensable for the 'seats' to work. 'Seat adjuster' allows the 'seat' to be complete in shape and perform the respective functions. Without affixing the same, a 'seat' can be rendered dysfunctional.
- (iii) The 'seat adjuster' in question can only be used with 'seats' and nothing else. They are manufactured keeping in mind the purpose and functions of a 'seat' and are designed in a way so that they can be affixed only with 'seats'. Hence, they cannot be termed as mere 'accessory'. As a corollary, if the 'seat adjuster' in question do not

qualify as ‘accessory’, the same has to be classified as ‘part’ at Serial No. 435A under Chapter 94 of Notification No.1 as amended by Notification No. 41. The ‘seat adjuster’ is an essential ‘part’ of ‘seats’ which helps the ‘seats’ to function properly, thereby completing it. The Applicant submits that without ‘seat adjuster’, ‘seat’ *per se* would be incomplete and therefore, the same needs to be treated as an essential ‘part’ of the ‘seat’ thereby classifiable under HSN 9401.

- (iv) As per the Explanatory Notes to Chapter 94 “*The heading also covers identifiable parts of chairs or other seats, such as backs, bottoms and arm-rests (whether or not upholstered) with straw or cane, stuffed or sprung) and spiral springs assembled for seat upholstery.*” Further, Explanatory Note to Chapter sub-heading 9401.80 states that “*This sub-heading also covers safety seats suitable for the carriage of infants and toddlers in motor vehicles or other means of transport. They are removable and are attached to the vehicle’s seats by means of the seat belt and a tether strap.*”
- (v) The applicant has submitted that ‘seat adjuster’ forms ‘part’ of the seat. The Explanatory Notes specifically mentions that arm-rests, bottoms and backs attached to ‘seats’ are to be classified under this heading. Much like bottoms, arm-rests and backs, the ‘seat adjuster’ in question also complete the ‘seats’ and give them a proper structure before being affixed to a vehicle. ‘Seat adjuster’ in question are affixed to ‘seats’ in particular which are then affixed to a motor vehicle. Since, a specific entry is there in the statute book relating to ‘seats’ under Chapter 94 the same has to be classified under Heading 9401 only.

**16.1.** The Applicant has cited various judgements to support his contention although none of them pertain to the classification of ‘seat adjuster’. The citations along with the brief/jist of their decisions are described hereunder:

- (i) **Greatship (India) Pvt. Ltd. Vs. Commissioner of Service Tax, Mumbai-I [2015 (39) STR 754(Bom)]**: Any taxing entry or statute/notification must be accorded a plain construction and nothing should be read into it.
- (ii) **Pragati Silicons Pvt Ltd v Comm. Of Central Excise, Delhi [2007 (211) ELT 534 (SC)]**: “*part is an element of a sub-assembly, not normally useful by itself and not amenable to further disassembly for maintenance purpose. In common parlance parts are used in the manufacture of the final product and without which the final product cannot be conceived of.*”
- (iii) **Collector of Customs v Hydranautics Membrane India Ltd [1994 (71) ELT 711 (Tri-Del)]** wherein the meaning of part was held to be: “*part as something essentially belonging to a larger whole, an integral portion*”.
- (iv) **Mazagaon Dock Shipbuilders Limited [2019 (020) GSTL 0475 (AAR)]** While referring to Cambridge Dictionary, the AAR observed “*Part as a noun - a separate piece of something or a piece that combines with other pieces to form the whole of something. One of the pieces that together form a machine or some type of equipment.*”

- (v) **Supreme Motors v State of Karnataka [1987 (27) ELT 409 (Kar)]**: While analyzing the meaning of the word ‘accessory’ observed that accessory is the supplementary or secondary to something of greater or primary importance’ ‘additional’, ‘any of several mechanical devices that assist in operating or controlling the tone resources of an organ’. ‘Accessories’ are not necessarily confined to particular machines for which they may serve as aids. The same item may be an accessory of more than one kind of instrument.”
- (vi) **Sanmar Electronics Corporation Limited v UOI [2010 (252) ELT 332 (Mad)]**: It was held that “the goods must also be classified according to their popular meaning and also the commercial sense as well. The court has to select the meaning which is relevant to the context, in which it has to interpret the word. The functional test is also a relevant factor.”
- (vii) **Haran D Manufacturing Company v State of Gujarat [1993 (91) STC 130 (Guj)]** wherein classification of ‘detergent soap’ was in question. Applying the ‘functional test’, the Hon’ble Court held that “in interpreting the term “soap” the real test would be functional test or the test of predominant user, and there is no reason to exclude “detergent soap” from the meaning of the term soap”.
- (viii) **KSE Ltd v Comm. Of Customs, Cochin [2017 (352) ELT 46 (Tri-Bang)]**: wherein it was held that “it is not disputed that the HSN explanatory notes have persuasive value. The Customs Tariff at the relevant time is fully aligned with the HSN and as such we are of the view that reference may be made to HSN for guidance as a legal aid.”
- (ix) **S.Narendrakumar& Co v Commissioner of Excise, Mumbai, 2011 (268) ELT 538 (Tri-Mum)**: The Hon’ble CETSAT also held that the Explanatory Notes serve as a proper aid of interpretation and classification while reference is being made to the Tariff schedule.
- (x) **AGFA India Pvt Ltd v Commissioner of Customs, Chennai [2017 (353) ELT 251 (Tri-Che)]** wherein the dispute was with regard to classification of X-ray machines under Chapter 84 and Chapter 90. Noting that Chapter 90 specifically provided for the same, the Tribunal observed that “On the submission of Revenue and on perusal of rival entries, it is made clear that specific entry relied upon by Revenue demonstrates the nature and character of the goods to attract it to the category it serve purposes of that entry. Although end-user is not the criteria for classification, but the very character and nature of goods when subscribe to a specific entry, that prevails over a general entry for classification. Therefore the classification sought by Revenue under CTH 9022 is appropriate for which appeal is dismissed.”
- (xi) **Pharm Aromatic Chemicals v Municipal Corporation of Greater Bombay [1997 (95) ELT 203 (Bom)]** wherein with respect to the applicability of ‘common parlance test’, it was observed that “The principles which govern the interpretation of items in the list of taxable goods are no more res integra. Various principles or tests have been evolved by the Supreme Court from time to time for interpretation of items of taxable goods. One of the well-known principles of interpretation is that words of everyday use must be construed not in the scientific or technical sense but as understood

*in the common parlance. If a statute contains a language which is capable of being construed in a popular sense, such a statute should not be construed according to the strict or technical meaning of the language contained in it but it should be construed in its "popular sense", meaning thereby the sense which people conversant with the subject matter with which the statute is dealing would attribute to it. The principles that emerge from the above interpretation can be summed up thus: Where no definition is provided in the statute for ascertaining the correct meaning of a fiscal entry, the same should be construed as understood in common parlance or trade or commercial parlance. Such words must be understood in their popular sense. The strict or technical meaning or the dictionary meaning of the entry is not be resorted to. The nomenclature given by the parties to the word or expression is not determinative or conclusive of the nature of the goods. The same will have to be determined by application of the well-settled rules or principles of interpretation which have been referred to as common parlance rule."*

- (xii) **MSRTC's Central Workshop v Commissioner of Central Excise, Aurangabad [2012 (282) ELT 101 (Tri-Mum)]**: The last test which can be applied for classification is the usage test, i.e. the products in question has to be classified as per their specific use in the market.
- (xiii) **Rotomatic Containers Pvt Ltd v Commissioner of Central Excise, Nashik [2010 (10) GSTL 568 (Tri-Mum)] and Commissioner of Central Excise, Nagpur v Duraweld Wear Plates Pvt Ltd [2009 (234) ELT 491 (Tri-Mum)]**: the decision was taken based on the specific use of components.

**16.2** We find that the applicant has put forward various grounds in his submission to prove that the product 'seat adjuster' forms a part of the seat i.e. the said product is an essential and integral part of 'seats' and helps to assemble and complete the structure of 'seats'; that without affixing the same, a seat can be rendered dysfunctional; that they are manufactured keeping in mind the purpose and functions of seat and can only be affixed with 'seats'; that much like bottoms, arm-rests and backs, the 'seat adjuster' in question also complete the 'seats' and give them a proper structure before being affixed to a vehicle and that 'Seat adjuster' in question are affixed to 'seats' in particular which are then affixed to a motor vehicle; that since a specific entry is there in the statute book relating to 'seats' under Chapter 94 the same has to be classified under Heading 9401 only. We also find that they have quoted many citations to support their contention. However, after going through the above, we have no hesitation in stating that the applicant has drastically failed to prove his point. Even though the applicant has time and again stated in his submission that the 'seat adjuster' is a part of the 'seat', he has failed to justify how it fits into the definition of 'parts'. As discussed in the earlier paras, 'parts' are an amount or section which when combined with others, makes up the whole of something which means that a 'part' is an essential component of the whole without which the whole cannot be complete or cannot function. Ideally, the parts of a seat would be the seat back (squab), seat base(cushion) and the head-rest i.e. these are the essential parts of a seat required to make it a whole or to complete it and enable it to function as a seat. Absence of a 'seat adjuster' in the seat does not make it incomplete or dysfunctional, as stated by the applicant, as it would continue to be a 'seat' even without a 'seat adjuster'. Also



the 'seat adjuster' does not give any shape or structure to the seat but merely helps the seat to slide back and forth as per the convenience/requirement or comfort of the driver or passenger. Therefore, we can safely conclude that a 'seat adjuster' cannot, by any stretch of imagination, be defined as a part of a 'seat' as it is not an essential component of the 'seat' i.e. the 'seat' is complete and fully functional without it. Further, as per definition, 'accessories' are different from parts as it is not an essential component of the whole without which the whole cannot be complete or function, but it is a thing which can be added to something else in order to make it more useful, versatile, or attractive. We find that 'seat adjuster' fits the definition of 'accessory' perfectly. Also, as discussed earlier, we find that the 'seat adjuster' is essentially in the nature of rails made out of iron and steel, which are affixed/welded/bolted into the lower cushion of the 'seat', which helps the driver or passenger to slide the seat back and forth, as per his convenience/requirement and comfort, with the operation of a lever forming part of the rail assembly. We find that the 'seat adjuster' merely helps in the adjustment of the seat i.e. moving it back and forth as per requirement/convenience and merely improves the efficiency and convenience of the seat but does not form a part of the seat. Even while looking at the function of the 'seat adjuster' as well as its use, it can be derived that it can be termed only as an 'accessory' and not a part of the 'seat'. Even in common parlance, the 'seat adjuster' is not considered as a part but only as an 'accessory' of the seat of a motor vehicle. Thus it can be concluded that the 'seat adjuster' is just an 'accessory', which improves the efficiency and convenience of the seat. Now, since Sub-heading No.94019000 only covers parts of a seat, the 'seat adjuster', which is not a 'part' but only an 'accessory' of the seat, would not be covered under the said sub-heading. However, Chapter heading 8708 covers both the 'parts' as well as 'accessories'. Therefore, in view of the facts mentioned above and also in light of the judgement of the Hon'ble Supreme Court referred to in the earlier paras, it can be concluded that 'seat adjuster', being an 'accessory' of the seat, does not fall under the heading 9401 but would be rightly classified under the Heading 8708 (Parts and accessories of the motor vehicles).

**16.3** Also, on going through the citations/judgements quoted by the applicant, we find that none of these citations/judgements support their contentions. However, we find that all of these citations/judgements are very much applicable in the instant case, as they fully support/endorse our views supra.

**17.** In view of the discussions as detailed above, we rule as under –

#### **R U L I N G**

The product 'seat adjuster' manufactured and supplied by M/s. Shiroki Technico India Pvt. Ltd. merits classification under Tariff item No.8708 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and is covered under Serial No.170 of Schedule-IV of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017.

**(SANJAY SAXENA)**

**(MOHIT AGRAWAL)**

**MEMBER**

**MEMBER**

Place: Ahmedabad

Date: 30.07.2020.