

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

4, Vibhuti Khand, Gomti Nagar, Lucknow

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING U/S. 98 OF
THE GOODS AND SERVICES TAX ACT, 2017**

Sub:- GST ACT, 2017 – Advance Ruling U/s 98 – Liability to tax under GST Act in respect to application dated 06.08.2018 from M/s. Bitcomm Technologies Pvt. Limited, Gautam Buddha Nagar – Order – Reg.

M/s. Bitcomm Technologies Private Limited, Plot No 115, Udyog Kendra Extension – 1, Ecotech-III, Greater Noida, Gautam Buddha Nagar, 201308 (hereinafter called the applicant) is a registered assessee under GST having GSTN : 09AAECB6906H1ZM.

The Applicant intends to manufacture and supply of goods 'LED based luminaire' for passenger coaches of Indian Railway.

The Applicant has submitted application for Advance Ruling on 06.08.2018. On scrutiny of the application, it was found that they are claiming that the said application for advance ruling was sent having ARN-A090518001855V dated 26.05.2018 and vide speed post dated 09.06.2018 which is said to be delivered to the Commercial Tax Office on 13.06.2018.

The Applicant in his application has raised following issues for determination by the Authority –

- a) What is the correct classification HSN code based luminaire in passenger coaches of Indian Railways which exclusively works on electric supply of 110/127 Volts?
- b) What is the rate at which such LED lights shall attract GST under Notification No.1/2017-Central Tax (rate) dated 28.6.2017?



The applicant was granted a personal hearing on 06.09.2018 but they have requested to prepone the date by 05.09.2018. On request of the applicant, the Personal Hearing was conducted on 05.09.2018. Shri Rakshit Verma and Shri R.C. Verma, Authorized representatives appeared for hearing. Submitted written submission, During hearing they argued that:-

- a. since LED lights of specific specification are supposed to supply only to Railways, these should be treated as Part of Railway and should be treated a item under coach work discussed in Chapter Note 2 of Chapter 86 (Customs Tariff).
- b. second question of application is completely linked with question one and they seek classification of LED light supplied to Railway only.
- c. company will supply manufactured light only to Indian Railway and not to any other entity. These items will be manufactured as per specification prescribed by RDSO of Ministry of Railway.

On the basis of the facts disclosed in the application, the oral and written submission made at the time of personal hearing and the documents produced during the personal hearing, it was decided to admit application.

The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report of which reply received vide their office letter dated 13.09.2018.

The applicant submitted that they intends to manufacture and supply goods namely 'LED based luminaire' only usable in passenger coaches of Indian Railways which is unique in their character/application/voltage load as compared to normal LED lights known in the Trade.

Applicant submitted that the abovementioned goods i.e. LED lights for coaches of Indian Railways can only be used within the coach of Indian Railways and have no other domestic/industrial application due to its unique character/application/voltage load, therefore such LED lights shall be classified as 'Parts of railway or tramway locomotives or rolling-stock' falling under tariff heading 8607 and attract GST @2.5% in terms of SI. No. 241 of Schedule-I of Notification No. 1/2017-Central Tax (Rate) dt. 28.6.2017.



The applicant submitted that Such LED lights are only manufactured against the order placed by Indian Railways and are not manufactured in general due to the reason such LED lights cannot work on electric voltage supply beyond 200 V which is prevalent in the domestic/industrial case and will only work against the electric voltage supply of less than 200 V i.e. the required electric voltage supply in Indian Railway passenger coaches.

The applicant submitted that the relevant goods i.e. LED lights for passenger coaches of Indian Railways shall be manufactured by them as per the specific design and drawings stipulated by Indian Railways in their tender/contract. Such unique LED lights are proposed to be manufactured so as to work against electric voltage supply of 110 V only. Such LED lights will not work in case of electric voltage supply of 220 V as supplied generally in domestic/industrial electricity supply cases. Moreover, the drawing and design provided by the Indian Railways shall form the basis on which such LED lights are proposed to be manufactured.

The applicant submitted that the applicant would like to bring to the notice of the Authority towards the design specification made by RDSO and the above mentioned specifications for manufacture of LED lights for railway coach makes it amply clear that such LED lights are not manufactured to work in regular conditions i.e. regular electric voltage supply of 220V and cannot be fitted at any other place for industrial/domestic application. The fitting and mounting has to be so designed so as to absorb high level of shock and vibrations. Thus, when the LED lights will be so manufactured so as to fit and work only within the coach of Indian Railways against specific electric voltage supply of 110/127 V, then such LED lights has to be treated as Part of Railways and merits classification under Chapter Heading 8607 of First Schedule to Customs Tariff Act, 1975.

Following case laws have been provided in support of their claim as mentioned below:-

- a. Commissioner of Central Excise, Bangalore V Sri Ram Metal Works 1998(99) ELT 616 (Tribunal)]



- b. Uni Deritend Ltd. v. Commissioner of Central Excise, Mumbai-III [2014 (313)ELT 423 (Tr-Mum.)]
- c. Sunflex Auto Parts v. Commissioner of Central Excise (Appeals), Mumbai-II [2004 (171) ELT 188 (Tr-Mum.)]
- d. Eee & Cee Pressing Pvt. Ltd. v. Commissioner of Central Excise, New Delhi [2001 (134) ELT 431 (Tri-Del.)]
- e. Eee & Cee Pressing Pvt. Ltd. v. Collector of Central Excise, New Delhi [2000 (116) ELT 556 (Tribunal)]
- f. Hindustan Welding Engineers v. Commissioner of Central Excise, Calcutta II [2001 (133) ELT 770 (Tri-Kolkata)]
- g. Hindustan Welding Engineers v. Commissioner of Central Excise, Calcutta II [2001 (133) ELT 770 (Tri-Kolkata)]
- h. Rail Tech v. Commissioner of Central Excise, Chandigarh [2000 (120)ELT393 (Tribunal)]

DISCUSSION AND FINDING

We have heard the Case, gone through the grounds of the appeal as well as the submissions made during the personal hearing.

We observe that the applicant intends to manufacture and supply goods namely 'LED based luminaire' for passenger coaches of Indian Railways and stated that these LED lights shall merit classification under tariff heading 8607, and attract CGST @ 2.5% in terms of Sl. No.241 of Schedule-1 of Notification No.1/2017 – Central Tax (Rate) dated 28.06.2017, as amended and SGST @2.5% in terms of Schedule-I of Notification No.KANI-2-836/XI-9(47)/17-U.P.ACT-1-2017-Order-(06)-2017 dated 30.06.2017 (as amended).

We observe that in support of the above view, the party has provided catena of judgments which are apparently not relevant in instant issue.

We observe that the applicant has mis-interpreted the classification of LED bases luminaire by taking consideration of Note 2(e) of Chapter 86 deriving the same as "Coachwork" as well as "Parts of railway or tramway locomotives or rolling-stock' falling under tariff heading 8607. The applicant has totally ignored the Note 2 (f) and 2(k) of Section XVII of the GST Tariff/ Customs Tariff Act, 1975



regarding "Vehicles, Aircraft, Vessels and Associated Transport Equipment", which is reproduced as below :

Note 2. The expression "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).....

*.....
(f) electrical machinery or equipment (Chapter 85)*

*.....
(k) lamps or lighting fittings of heading 9405*

From the above, it is clearly established in note 2 (f) and (k) that electrical machinery or equipment (chapter 85) and lamps or lighting fitting of heading 9405 whether or not indefinable as for the goods of said Sections, cannot be treated as 'parts' and 'parts and accessories' of any vehicles, Aircraft, Vessels and Associated Transport Equipment. The implication of Note 2 of Section XVII would be that the LED bases luminaire procured by the railways are to be classified in chapter 9405 instead of 8607. Therefore, GST on LED bases luminaire is applicable by classifying the same under chapter sub-heading 9405.

Further, Hon'ble Supreme court on a Civil Appeal No.4564 of 2002 having similar issue in the case of **Intel Design Systems (India) Pvt. Ltd. [2008(223)ELT135(SC)]** upheld the order of the adjudicating authority by a verdict that

"Since these fall under the category of excluded goods under Chapter Notes, even though they are used specifically solely or principally with the armoured vehicles of Chapter Heading 8710, they are classifiable under Chapter Heading 8536.90 only as held by the adjudicating authority".

In view of the above, We find that the contention of the party is not correct and LED based luminaire used in passenger coaches of Indian Railways should be classifiable under chapter 9405 of the GST Tariff and the taxpayer have to pay CGST @ 6% in terms of Sr. No.226 of Schedule-II of Notification No.1/2017-



Central Tax (Rate) dated 28.06.2017, as amended and SGST @6% in terms of Schedule-II of Notification No.KANI-2-836/XI-9(47)/17-U.P.ACT-1-2017-Order-(06)-2017 dated 30.06.2017 (as amended).

In view of the above, we rule as under;

RULING

The point wise clarifications are as under:-

- a) What is the correct classification HSN code based luminaire in passenger coaches of Indian Railways which exclusively works on electric supply of 110/127 Volts?

Ans. – Correct classification of luminaire in passenger coaches of Indian Railways which exclusively works on electric supply of 110/127 Volts is under chapter 9405.

- b) What is the rate at which such LED lights shall attract GST under Notification No.1/2017-Central Tax (rate) dated 28.6.2017?

Ans. – As per Schedule-II of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017(as amended) issued by the Central Government and Schedule-II of Notification No.KANI-2-836/XI-9(47)/17-U.P.ACT-1-2017-Order-(06)-2017 dated 30.06.2017 (as amended) issued by the Uttar Pradesh Government LED lights shall attract to 6% CGST and 6% SGST.


Dinesh Kumar

Member of Authority for Advance
Ruling


Rakesh Khandelwal

Member of Authority for Advance
Ruling



To,

M/s. Bitcom Technologies Private Limited,
Plot No 115, Udyog Kendra Extension – 1,
Ecotech-III, Greater Noida,
Gautam Buddha Nagar, 201308

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 13

Date: 13.09.2018

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Advance Ruling Appellate Authority.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Advance Ruling Appellate Authority.
3. The Commissioner, CGST & Central Excise, Gautam Buddha Nagar, Uttar Pradesh;
4. Through the Additional Commissioner, Commercial Tax, Gautam Buddha Nagar, Uttar Pradesh to jurisdictional tax assessing officers.

