

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Act, 2017)

BENCH

Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX
Mr Parthasarathi Dey, Additional Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Act, 2017, within thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	M/s Hooghly Motors Pvt Ltd
Address	100 MG Road, Chinsurah, Hooghly West Bengal, Pin 712101
GSTIN	19AADCH4652F1ZL
Case Number	09 of 2020
ARN	AD 190620003195F
Date of application	06/07/2020
Order number and date	06/WBAAR/2020-21 dated 10/08/2020
Applicant's representative heard	Sri A. K. Das, Authorized representative

1. Admissibility of the Application

1.1 The applicant is a manufacturer of "three-wheeled motor vehicles", commonly known as "Toto". It wants to know whether such a three-wheeled vehicle is classifiable as an 'electrically operated motor vehicle' under HSN 8703 when supplied with a battery pack. It also wants to know the classification when supplied without the battery pack. The question is admissible under section 97(2)(a) of the GST Act, 2017. The concerned officer from the revenue submits that question raised in the application is not pending or decided in any proceedings of the GST Act. As such, he does not object to the admissibility of the application. The application is, therefore, admitted.

2. Submissions of the Applicant

2.1 The applicant submits that the goods it manufactures are supplied with the battery pack and, therefore, should be classified under HSN 8703, being an electrically operated three-wheeled motor vehicle. It is different from the body of a

three-wheeled motor vehicle supplied without the battery pack. The latter may be classified as parts of a three-wheeled motor vehicle classifiable under HSN 8708.

3. Submissions of the Revenue

3.1 The concerned officer from the revenue has refrained from offering any further comment on the issue.

4. Observations and findings of the Bench

4.1 The applicant describes the goods it supplies are electrically operated three-wheeled vehicles, commonly known as 'Toto'. It is e-rickshaw, as defined in section 2A (2) of the Motor Vehicles Act, 1988 (hereinafter the MV Act). According to the above provisions of the MV Act, an e-rickshaw is a three-wheeled special-purpose battery-powered vehicle of power not exceeding 4000 watts. Explanation to Entry No. 242A of Schedule I to Notification No. 1/2017-Central Tax (Rate) dated 28/06/2017 (State Notification No. 1125-FT dated 28/06/2017), as amended from time to time (hereinafter collectively called the Rate notification), defines the term 'electrically operated vehicle' to mean "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".

4.2 A combined reading of the provisions of section 2A (2) of the MV Act and Entry No. 242A of Schedule I of the Rate Notification establishes that the battery pack is an essential character of an e-rickshaw. An electrically operated three-wheeled vehicle is run entirely on electrical energy, derived from an external source or one or more electrical batteries fitted to such vehicles. If the battery pack is withdrawn, it will no longer be a three-wheeled electrically operated vehicle.

4.3 Motor vehicles for carrying less than ten passengers are classified under Heading 8703 of the First Schedule of the Customs Tariff Act, 1975 (hereinafter the Tariff Act), which is adopted in the GST Act for classification. Sub-heading 8703 10 covers the vehicles specially designed for travelling on snow, golf cars and similar vehicles. The term 'similar' narrows the scope to specific use other than carrying passengers on hire on regular roads. All other sub-headings except the residual sub-heading 8703 90, refer to vehicles fitted with an internal combustion engine. E-rickshaws or electrically operated three-wheeled vehicles are, therefore, classifiable under Tariff heading 8703 90 10 of the Tariff Act.

4.4 A three-wheeled motor vehicle without the battery pack does not have the essential character of an 'electrically operated vehicle.' However, it is neither a vehicle fitted with an internal combustion engine. Unless it is equipped with any device like solar panels that may supply energy for its locomotion, it is not classifiable as a vehicle under Sub-heading 8703 of the Tariff Act. However, it includes the chassis fitted with the motor to convert electrical energy into the mechanical energy to put the vehicle into locomotion once the battery pack is attached. Such a device is called the engine of the vehicle. It is, therefore, classifiable under Tariff-head 8706 00 31, being the chassis fitted with an engine of a vehicle under sub-heading 8703.

Based on the above discussion, we rule as under,

RULING

A three-wheeled motor vehicle is classifiable under HSN 8703 as an electrically operated vehicle, provided it is fitted with the battery pack. Otherwise, it will be classifiable under HSN 8706.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

(SUSMITA BHATTACHARYA)

Member

West Bengal Authority for Advance Ruling

(PARTHASARATHI DEY)

Member

West Bengal Authority for Advance Ruling