

AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Ms. Manasa Gangotri Kata IRS., Joint Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai.

2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member(FAC),
Office of the Joint Commissioner (ST), Enforcement /
Inter-State Investigation Cell, Chennai-6.

ORDER No.7/AAR/2018 DATED 30.08.2018

GSTIN Number, if any / User id		33AAACB2533Q1ZP
Legal Name of Applicant		M/s. Brakes India Private Limited,
Registered Address/Address provided while obtaining user id		MTH Road, Padi, Chennai 600 050.
Details of Application		GST ARA - 001 Application No.17 dated 20.04.2018
Concerned Officer		State : The Deputy Commissioner (ST)-IV, Large Tax Payer Unit, Egmore, Chennai -600 008. Centre : Chennai North Commissionerate- Ambattur Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Manufacturer of Auto components
B	Description (in Brief)	Manufacturer of Auto components Viz., Caliper brakes, Drum brakes, Actuation Systems, Disc Brake pads, etc., and also Dry and Wet brakes for agricultural tractors.
Issue/s on which advance ruling required		Classification of a products referred to as Disc Brakes Pads manufactured and supplied by the applicant under Tariff Heading 8703 or 6813 under GST Act.
Question(s) on which advance ruling is required		What is the classification of products referred to as Disc Brakes Pads manufactured and supplied by the applicant. The Applicant is covered under SI.No. 170 of Schedule IV of Notification 1/2017 dated 28.06.2017- Integrated Tax (Rate) (hereinafter referred to as the GST Tariff Notification), i.e., under Tariff Heading 8708 attracting GST at 28% or under

	Sl.No.182 B of Schedule III of the Rate Notification i.e., under Tariff Heading 6813 attracting GST Rate of 18%?
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Note : Any appeal against the advance ruling order shall be filed before the Tamilnadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Brakes India Private Limited, MTH Road, Padi, Chennai 600 050 (hereinafter called as Brakes or Applicant) is engaged in the manufacture of auto components viz., caliper brakes, drum brakes, actuation systems, disc brake pads, valves, rubber hose, ABS and brake fluid for light motor vehicles, S-cam brakes, Hydraulic drum brakes and Electro Magnetic Retarders for commercial vehicles and also Dry and Wet brakes for agricultural tractors.

The applicant has submitted the copy of application in Form GST ARA – 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

M/s. Brakes India Private Limited has sought classification of the product 'Disc Brake Pads' manufactured and supplied by them and the question sought is

What is the appropriate classification of 'Disc Brake Pads' under GST? Whether 'Disc Brake Pads' supplied by the Applicant is covered under Sl.No. 170 of Schedule IV of Notification 1/2017 dated 28.06.2017- Integrated Tax (Rate) (hereinafter referred to as the GST Tariff Notification), i.e., under Tariff Heading 8708 attracting GST at 28% or under Sl.No.182 B of Schedule III of the Rate Notification i.e., under Tariff Heading 6813 attracting GST Rate of 18%?

2. M/s. Brakes India Private Limited has stated that Disc Brake Pads are commonly used in the brake assembly of motor vehicles also known as caliper brakes, to cause friction, which would assist the vehicle to slow down or stop. Disc Brake Pads contain two elements, i.e., one, the Disc Pad which is made of friction materials and the backing plate made of steel which is coated with an adhesive. These two elements when brought together, form what is referred to as the 'Disc Brake Pads'. The two-main processes that the Disc pads (friction

material) and the backing plate undergo are the process of using adhesives to bond the friction material to the backing plate and the process of molding, where the Disc Pads are pressed, heated and cured. Every backing plate has two cavities and the finished Disc Brake Pad would show that the aforesaid processes of heating, applying pressure and curing, would result in a part of the friction material getting extruded into these cavities, thus securing the friction material firmly to the back plate and forming one integrated single piece component. This process assists in preventing detachment and fortifying the bonding of the friction material decisively to the back plate.

3. The Authorized Representative of the Applicant was personally heard in the matter on 29.05.2018. They produced a letter and annexure with brochure of the product, technical data sheet, photograph of the product and videography of the manufacturing process undertaken. They further undertook to submit copies of POs, invoices in 10 days. They furnished sample copies of POs, invoices vide their letter dated 31.05.2018. They also furnished the ruling of AAR in the State of Uttarkhand in respect of classification of Disc Brake Pads and applicable rate of tax under GST based on the application received from M/s. Indo German Brakes Private Limited. In the written submission, the applicant has stated that the product is not classifiable under CTH 6813 as HSN Explanatory Notes to CTH 6813 specifically excludes Mounted Brake Linings. The applicant further stated that they are rightly classifiable under CTH 8708 at 28% under Sl. No 170 of Notification 1/2017 dated 28.06.2017- Integrated Tax (Rate) as amended dated 28.06.2017.

4. On examination of the documents submitted, it is seen that the product in question is an assembly consisting of friction material and a steel back plate. The friction material comprises of organic fibers, binding material, steel wool powder, synthetic/natural graphite, fillers etc. Its purpose is to provide the necessary frictional force when in contact with the disc while brake is applied. The steel back plate is used to fasten or bond the friction material rigidly in order to take care of severe pressure/load applied on it under various braking conditions. As per the manufacturing process, it is seen that the Disc pads (friction material) and the backing plate undergo the process of using adhesives to bond the friction material to the backing plate and the process of molding, where the Disc Pads are pressed, heated and cured forming one integrated component. It is seen from the sample invoices provided by the applicant that the goods in question are being called at KIT PAD Assembly, Disc Brake and are being classified under 87083900.

5.1 The issue before us is to determine the classification of — Disc Brake Pads, manufactured and marketed by the Applicant. There are two competing classifications where it could be covered: Heading 6813 or 8708. In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, 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 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

5.2. Chapter Heading 6813 states: -

*Friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), **not mounted**, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textiles or other materials*

HSN Explanatory Notes to Heading 6813 provides for specific exclusions as under:

The Heading excludes:

- (a) Friction materials not containing mineral materials or cellulose fibre (e.g., those of cork); these are generally classified according to the constituent material.*
- (b) Mounted brake linings (including friction material fixed to a metal plate provided with circular cavities, perforated tongues or similar fittings, for disc brakes); these are classified as parts of the machines or vehicles for which they are designed (e.g., heading 87.08).*

Heading 8708 covers

"Parts and accessories of the motor vehicles of headings 8701 to 8705".

HSN Explanatory Notes to Heading 8708 states as under: -

Parts and accessories of this heading include:

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:

6. From the above, it is evident that Friction Material in the form of discs or pads or any other form consisting of mineral materials with or without textiles are classifiable under CTH 6813 if they are not mounted. But when they are mounted including friction material fixed to a

metal plate provided with circular cavities, perforated tongues or similar fittings for disc brakes, these are classified as parts of the machines or vehicles for which they are designed. In the present case, the product consists of a friction material (made up of organic fibers and minerals, graphite) which is bonded with a steel backing plate forming an integrated component. Heading 6813 specifically excludes such mounted brake linings which are rightly classifiable as parts of vehicles for which they are designed. It is used in automotive vehicle brakes to stop or slow down the vehicle. Parts of the motor vehicles of heading 8701 to 8705 are classifiable under Heading 8708. Explanatory Notes to CTH 8708 also covers *Brakes (shoe, segment, disc, etc.) and parts thereof (plates, drums, cylinders, mounted linings, oil reservoirs fir hydraulic brakes, etc.)*. Thus the product to be classified 'Disk brake Pads', a part of the motor vehicle, classifiable under Heading 87083000 as 'Brakes and servo-brakes; parts thereof'. The product attracts 14% CGST covered under Sl.No. 170 of Schedule IV of Notification No. 01/2017 dated 28.06.2017- C.T. (rate) as amended and 14% SGST under Sl.No. 170 of Schedule IV of G.O. (Ms) No. 62 dated 29.06.2017 No. II(2)/CTR/532(d-4)/2017 respectively for intra state supply.

7. In light of the above, we rule as under

RULING

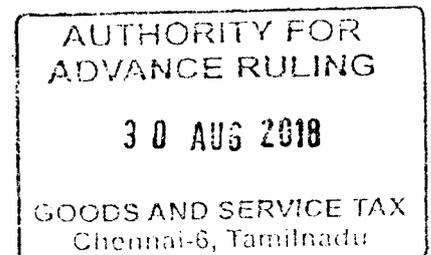
'Disc Brake Pads' manufactured and supplied by the Applicant are classified under Heading 87083000 and covered under Sl. No. 170 of Schedule IV of Notification No. 01/2017 CT (Rate) dated 28.06.2017 and Sl.No. 170 of Schedule IV of G.O. (Ms) No. 62 dated 29.06.2017 No. II(2)/CTR/532(d-4)/2017 attracting 14% CGST/14% SGST respectively.


Ms. Manasa Gangotri Kata, IRS
Member, CGST


Shri. S. Vijayakumar, M.Sc.,
Member (FAC), TNGST

To
M/s. Brakes India Private Limited,
MTH Road,
Padi, Chennai-600050.

/By SPAD/



Copy Submitted to:

1. The Additional Chief Secretary/Commissioner of Commercial Taxes, II Floor,
Ezhilagam, Chepauk, Chennai-5.
2. The Principal Chief Commissioner of GST & Central Excise, 26/1,
Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

1. The Deputy Commissioner (ST)-IV,
Large Tax Payer Unit,
Egmore, Chennai -600 008.
2. The Commissioner of GST & C.Ex., Chennai North Commissionerate,
26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai-600034.
3. Master File/ ~~S~~pare – 2.