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Advance Ruling No. KAR ADRG 20/2022 Dated 12th August, 2022

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Present:

1. Dr. M.P.Ravi Prasad

Additional Commissioner of Commercial Taxes Member (State)

2. Sri. T. Kiran Reddy,

Additional Commissioner of Customs & Indirect Taxes Member(Central)

1.	Name and address of the applicant	M/s. KNK KARTS (P) LIMITED, Plot No.3, KSSIDC Industrial Estate, Khanapur, Belgaum District-591302.
2.	GSTIN or User ID	29AAHCK5660N1ZU
3.	Date of filing of Form GST ARA-01	27-01-2022
4.	Represented by	Sri Raghavendra B Hanjer, Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Belagavi Commissionerate, Belagavi Rural Division, Bailhongal Range, Belagavi
6.	Jurisdictional Authority -State	ACCT, LGSTO-395, Belagavi
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide Challan No. HDFC22012900101607, Dated: 14.01.2022

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. KnK Karts (P) Limited, Plot No.3, KSSIDC Industrial Estate, Khanapur, Belgaum District-591302 (hereinafter referred to as The applicant'), having GSTIN 29AAHCK5660N1ZU have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Private Limited Company registered under the provisions of the Central Goods and Services Tax Act, 2017 as well as the Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The Applicant is engaged in the manufacture and supply of 'amusement park ride karts' commonly known as 'Go-Karts'.

3. The applicant has sought advance ruling in respect of the following questions:-

- i. Whether the 'amusement park ride karts' commonly known as 'Go-karts' manufactured and supplied by the applicant meant solely for the purpose of joy riding or amusement or recreational purpose and are designed and shaped to suit to run or drive only on extremely smooth specially designed surfaced tracks or closed circuits, are classifiable under Chapter Tariff Heading 9508 of the First Schedule to the Customs Tariff Act, 1975?
- ii. Whether the 'amusement park ride karts' commonly known as 'Go-karts' manufactured and supplied by the Applicant which are not roadworthy and cannot be registered as Motor Vehicles with the Regional Transport Authority ('RTO' for short) are classifiable as 'Motor Vehicles meant for carrying of passengers / persons' under Chapter Tariff Heading 8703 of the First Schedule to the Customs Tariff Act, 1975?
- iii. Whether the 'amusement park ride karts' commonly known as 'Go-karts' manufactured and supplied by the Applicant attracts GST at the rate of 18% under Sl.No.441A of Schedule III to Notification No.1/2017-Central Tax (Rate) dated 28-06-2017 as amended by Notification No. 18/2021-

Central Tax (Rate) dated 28-12-2021 or at the rate of 18% under Sl. No. 453 of Schedule III to Notification No. 1/2017-Central Tax (Rate), dated 28-06-2017?

4. Admissibility of the application: The question is about the "classification of goods and/or services of both" and "applicability of a notification issued under the provisions of the Act" and hence is admissible under Section 97(2)(a) and 97(2) (b) of the CGST Act 2017.

5. BRIEF FACTS OF THE CASE:

The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that 'amusement park ride karts' commonly known as 'Go karts', manufactured and supplied by the them are mainly used for joy riding or amusement ride both for children as well as adults. The said products are neither roadworthy nor meant for transportation or for carrying of passengers. The applicant states that the Automotive Research Association of India ('ARAI' for short), an authority established to certify the road worthiness of the manufactured vehicles, has observed that Co-karts are not permitted on public roads and are not fit for certification.

5.2 The applicant states that the goods manufactured and supplied by them comprise of amusement park go-karts and scale model karts and are supplied with an engine, transmission and tyres. In some cases, the same are supplied as a 'rolling chassis' comprising of a chassis frame with no engine, transmission or tyres.

5.3 The applicant states that the products manufactured and supplied by them are designed and shaped to run or drive only on extremely smooth specially designed surfaced tracks or closed circuits and not on unsurfaced tracks or trails where normal automobiles are able to operate. The products are not road worthy and cannot be registered with the Regional Transport Authority as Motor Vehicles.

5.4 The applicant states that they were under the impression that the 'Amusement Park Ride Karts' commonly known as 'Go-karts' manufactured and supplied by them are classifiable under Chapter Tariff Heading (CTH) 9503 (presently under CTH 9508) of the Customs Tariff Act, 1975. The Applicant states that since the jurisdictional Central Excise Department insisted them to classify the 'Go-karts' under CTH 8703 of the Customs Tariff Act, 1975 and to pay GST at the rate of 28% in terms of Sl.No. 165 of Notification No. 1/2017-Central Tax (Rate) dated 28-06-2017, they are following the same.

5.5 The applicant further states that the legislature has amended the First Schedule to the Customs Tariff Act, 1975 with effect from 01-01-2022 based on realignment of the Explanatory Notes to Harmonized Systems of Nomenclature. The amended Chapter Tariff Heading 9508 of the First Schedule to the Customs Tariff Act specifically covers 'Amusement Park Ride Karts' commonly known as 'Go-karts'.

6. Applicant's Interpretation of Law:

6.1 'Amusement Park Ride Karts' manufactured and supplied by the applicant commonly known as 'Go-karts' are classifiable under Chapter Heading 9508 of the Customs Tariff Act, 1975-

6.1.1. The applicant submits that in order to determine the classification of the Go-karts it is necessary to see the chapter description / heading read along with the relevant section and chapter notes, and in absence thereof the classification has to be done on trade or commercial parlance. Further, the Schedule to the Customs Tariff Act, 1975 provides the following rules for interpretation of the tariff to aid in the classification of goods:-

- i. a reference to a product includes an incomplete or unfinished product provided that the incomplete or unfinished product has the essential character of complete or finished goods.
- ii. a reference in heading to a material includes the reference to a mixture or combination of that product. The classification of goods consisting of more than one material shall be decided on the basis of the material which gives the essential character to the product.
- iii. a specific heading should be preferred to the more general heading.
- iv. in case the classification cannot be decided on the basis of above principle, the product shall be classified under a heading, which occurs last in the chapter/heading/sub-heading.

6.1.2 The applicant submits that in the present case, the products manufactured and supplied by them are 'amusement park ride karts' which are commonly known as 'Go-karts'. Go-karts are mainly used for joy riding or entertainment ride or amusement ride both for children as well as adults. The products are neither roadworthy nor designed for transportation or for carrying of passengers.

6.1.3 The applicant submits that Go-kart joy ride or amusement ride is conducted in enclosed environment which is completely fenced-in for the purpose of safety and driven on a pre-determined closed loop circuit which can be either indoor or outdoor.

6.1.4 The applicant submits that, in order to use the motor vehicles on the public roads in India, the vehicles should be registered with the Regional Transport Authority ('RTO' for short) and requires certificate of emission, safety and roadworthiness as per the requirements of the provisions of the Motor Vehicles Act and the Rules made thereunder. The said certificate is issued by ARAI.

6.1.5 Automotive Research Association of India (ARAI), is the leading automotive R&D organization of the country set up by the Automotive Industry with the Government of India. The Applicant submits that, the ARAI, an authority constituted for fitness of motor vehicles run on roads has rejected the certification as motor vehicle on the ground that, the Go-karts are not roadworthy and cannot be considered as motor vehicles within the ambit of Motor Vehicles Act.

6.1.6 The applicant also submits that Go-karts are primarily used across the globe as an amusement ride for children and families for the purposes of recreation. The United States of America, where the Go-kart was invented, classifies the Go-kart under Chapter 95030089 as a piece of

equipment primarily meant for recreational and entertainment purpose. The United States, being the largest market for Go-karts in the world, exports their products under HSN 95030089, which is free of import duty.

6.1.7 The applicant states that as per the Motor Vehicles Act, Children below the age of 18 years are not permitted to ride or drive motor vehicles and require driving license to drive the vehicle. In case of violations, the vehicles will be seized and the person riding / driving the vehicle will be fined and also imprisoned for the contraventions of the statute. However, no such restrictions are imposed under any of the statute to use Go-karts by children below the age of eighteen years.

6.1.8 The Applicant submits that 'amusement park ride karts' commonly known as 'Go-karts' are meant for joy riding or amusement or recreational purposes and hence, are rightly classifiable as 'amusement park rides' under CTH 9508 of the I Schedule to the Customs Tariff Act, 1975. The substituted CTH 9508 ibid W.E.F. 01.01.2022 is reproduced as below:

Tariff Item	Description of Goods
95.08	Travelling circuses and travelling menageries; amusement park rides and water park amusements; fairground amusements, including shooting galleries; travelling theatres.
9508.10	- Travelling circuses and travelling menageries - Amusement park rides and water park amusements:
9508.21	- Roller coasters
9508.22	- Carousels, swings and roundabouts
9508.23	- Dodge'em cars
9508.24	-- Motion simulators and moving theatres 9508.25 - water rides
9508.26	-- water park amusements
9508.29	-- Other
9508.30	-- Fairground amusements
9508.40	-- Travelling theatres.

On perusal of the above Chapter Heading it is evident that 'amusement park rides' are specifically classifiable under CTH 9508.10 ibid.

6.1.9 The Applicant further submits that the expression 'amusement park rides' referred in Chapter Tariff Heading CTH 9508 ibid is defined under Chapter Note 6 to Chapter 95 of the Customs Tariff Act. The relevant Chapter Note 6 to Chapter 95 ibid is reproduced as below:-

Chapter Note 6. For the purposes of heading 95.08:

(a) The expression "amusement park rides" means a device or combination of devices or equipment that carry, convey, or direct a person or persons over or through a fixed or restricted course, including watercourses, or within a defined area for the primary purposes of amusement or entertainment. Such rides may be combined within an amusement park, theme park, water park or fairground. These amusement park rides do not include equipment of a kind commonly installed in residences or playgrounds;

6.1.10 The applicant submits that in the present case, the product namely 'Go-kart' manufactured and supplied by them is a device or devices or equipment that carries or conveys or directs a person or persons over or through a fixed or restricted course including within a defined area for the primary purpose of joy riding or amusement ride or fun riding. Therefore, the applicant has submitted that the Go-kart manufactured and supplied by the Applicant is rightly and specifically classifiable under CTH 9508.10 ibid.

6.1.11 The applicant submits that it is a settled law that there cannot be static parameters for classification of goods. However, entries in the Tariff, HSN along with explanatory notes, functional utility, design, shape and predominant usage of the goods have to be taken into consideration for determining the classification.

6.1.12 The applicant has placed reliance on the following decisions:-

- > O.K. Play (India) Limited Vs CCE Delhi-III reported in 2005(180) ELT 300 (SC).
- > CCE, New Delhi-III Vs. Uni Products India Limited reported in 2020 (372) E.L.T.465 (S.C.)
- > Cast Metal Industries (P) Limited Vs CCE., Kolkata-2015 (325) E.L.T 471 (SC)

6.2 The Applicant states that Go-karts manufactured by the Applicant are not meant for travelling or carrying of passengers but are meant for joy riding and hence, cannot be classified as Motor Vehicles under Chapter Tariff Heading 8703 of the Customs Tariff Act, 1975

6.2.1 The Applicant submits that they have been classifying the Go-karts manufactured and supplied by them under CTH 8703 at the insistence of the department. However the said products cannot be considered as a motor vehicle coming within the ambit of Chapter 87 of the Central Excise Tariff Act, 1985 as they are amusement park rides meant to use for joy riding or amusement park rides or recreational purpose. Chapter Tariff Heading 8703 of Custom Tariff Act covers motor cars and other motor vehicles principally designed for the transport of persons including station wagons and racing cars. The relevant CTH 8703 ibid is reproduced as below:

Tariff Item	Description of Goods
8703	Motor cars and other motor vehicles principally designed for the transport of persons (Other than those of heading 8702), including station wagons and racing cars
8703 10	-Vehicles specially designed for travelling on snow; golf cars and similar vehicles:
8703 10 10	--- Electrically operated
8703 10 90	--- Other

6.2.2 The CTH 8703 covers only the motor cars and other motor vehicles principally designed for transport of persons and racing cars. The expression 'motor cars' or 'motor vehicle' used in the tariff heading are not defined either under the Customs Tariff Act, 1975 or under the Customs Act or the rules made there under and hence, it is very much necessary to advert into the definitions as defined under the Motor Vehicles Act. The definition of 'Motor car' and 'Motor vehicle' as defined respectively under Section 2(26) and (28) of the Motor Vehicles Act, 1988 is reproduced as below:-

Section 2(26) Motor-car means any motor vehicle other than a transport vehicle, omnibus, road roller, tractor, motor cycle or invalid carriage; Section 2(28) Motor vehicle or vehicle means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres;

6.2.3 The Applicant states that on perusal of the above definition, it is clear that any motor vehicle is considered as motor car other than the one specified. Further motor vehicle or vehicle means any mechanically propelled vehicles adapted for use upon roads and includes chassis. Further as per the provisions of Section 39 of the Motor Vehicles Act, 1988 motor vehicles are not permitted to drive on roads without registration with the registering authority i.e., RTO.

6.2.4 In the present case, it is an undisputed fact from the ARAI certificate that the Go-karts are not certified as motor vehicles and are not fit to run on roads and hence, no registration is possible under the provisions of the Motor Vehicles Act, 1988.

6.2.5 Further, the expression 'persons' used after "motor cars and other motor vehicles principally designed for transport of" in the chapter tariff heading appears to be plural which means the Motor Cars and Motor Vehicles should be capable of carrying more than one person. In the present case, the Go-karts manufactured and supplied by the Applicant are not capable or designed to transport persons but are meant for joy rides wherein only one person can sit in the vehicle. There is only one model designed to suit for two seating in cases where a child cannot operate the Go-kart, in such a case an adult can ride along with the child. In any case, even in case of those models of Go-kart, the purpose or intention is not to carry or transport persons but for joy riding or amusement or for recreational purpose only. It is therefore, clear that the Go-karts manufactured and supplied by the Applicant does not fall under Chapter Tariff heading 8703 of CTA.

6.2.6 The Applicant further submits that the HSN Explanatory Note to Chapter 8703 also clarifies that the heading 8703 covers motor vehicles of various types designed for the transport of persons. It also clarifies that the vehicle has a single enclosed interior space comprising an area for the driver and passengers and another area that may be used for transport of both persons and goods. The expression 'transport of persons' means the vehicles should be capable of transporting persons more than one but excluding the driver. The driver who drives the motor vehicle cannot be considered as 'transport of persons' as he can only be considered as user / rider of the vehicle for transport of persons and he himself cannot be considered as transport of persons in order to cover the vehicle under Chapter Heading 8703. Further if the other entries in the same chapter headings are looked into, it is very clear that transport of persons including the driver is referred to clarify the same. On the other hand, a mere joy riding 'Go-kart' by a person can never be termed as transport of persons as the expression transport of persons involves transporting a passenger from one place to another. In the case of 'joy rides' the movement of the go-kart is within the confines of a 'closed loop circuit'.

6.3 Marketing of the product should be considered as criteria to determine the classification.

6.3.1 The Applicant submits that marketing of the products or common parlance is relevant for determining the classification of the product more so when the products in dispute are bought and sold as 'amusement park ride karts' commonly known as 'Go-karts' and rightly satisfies the requirement of Chapter Tariff Heading 9508 in terms of HSN. It is submitted that it is a well settled law that when the statute define the words in the statute book there is no need to go into the test of marketability and functional utility of the product.

6.3.2 The Applicant in support of the above submission, place reliance on the decision of the Hon hie Apex Court in the case of Indo-International Industries vs. Commissioner of Sales Tax, UP reported in 1981 (8) ELT 325 (SC), wherein it has been held that the 'trade parlance' is relevant when the statute does not define the words.

6.3.3 The Hon hie Apex Court in the case of Commissioner of Central Excise vs. Wockhardt Life Sciences Limited reported in 2012 (277) ELT 299 (SC), has held that the marketing of goods is also relevant criteria for the purpose of classification of the products.

6.3.4 The Applicant also places reliance on the following decisions in support of their above submissions:-

- Kedia agglomerated Marbles Limited vs. Collector of Central Excise - 2003 (152) ELT 22 (SC)
- C.C.E. vs. Shree Baidyanath Ayurved, 2009 (237) E.L.T. 225 (S.C.)
- Commissioner of Central Excise, Delhi vs. Ishaan Research Lab (P) Ltd. -2008 (230) E.L.T. 7 (S.C.)
- Alpine Industries vs. CCE., New Delhi - 2003 (152) E.L.T. 3 (S.C.)
- G.S. Auto International Ltd. Vs. Collector - 2003 (152) E.L.T. 3 (S.C.)
- Shree Baidyanath Ayurved Bhavan Ltd. Vs. Collector - 1996 (83) E.L.T. 492 (S.C.)
- Hamdard (WAKE) Laboratories vs. CCT -2019 (20) G. S. T.L. 46 (All.)
- Dabur India Ltd. Vs. CCGST., Ghaziabad - 2020 (34) G.S.T.L. 9 (All.)
- Crystalonics Displays (P) Ltd. vs. CC (Appeals), Bangalore - 2018 (364) E.L.T. 134 (Tri.- Bang.)

6.3.5 The applicant submits that in view of the above, it is clear that, the products are marketed as 'amusement park ride karts' commonly known as 'Go-karts'. Further the disclaimer displayed on the website maintained by the Applicant shows that "Go-karts are not permitted to be operated on any public road, street, lane,, by-lane, highway, sidewalk or alleyway, driving them in such places may be a violation of local laws, only operate karts on private properties or in areas that are specifically designated for such purposes. All this clearly shows that the products in dispute manufactured and supplied by the Applicant are special purpose toys meant for driving on extremely smooth surfaced tracks and not on unsurfaced tracks and trails.

6.3.6 In view of the above, the marketability or trade parlance is required to be considered for classification of products.

6.4 Rate of GST applicable for Go-karts manufactured by the Applicant

6.4.1 The applicant submits that the rate of GST applicable for 'amusement park ride karts' commonly known as 'Go-karts would be as per the rate specified under the Central Goods and Service Tax Act, 2017 and Karnataka Goods and Service Tax Act, 2017. Section 9(1) of the Act provides for levy of GST at such rates, not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the Council.

6.4.2 The applicant submits that SI No.441A of Schedule-III to Notification No.01/2017-Central Tax (Rate) as amended by Notification No. 18/2021-Cental Tax (Rate) dated 28.12.2021 prescribes rate for supply of goods falling under Chapter 9508 of the CTA. The relevant serial number 441A of Schedule-III to Notification No. 01/2017-Central Tax (Rate) as amended by Notification No. 18/2021-Central Tax (Rate) dated 28.12.2021 is extracted as below:

SCHEDULE III - 9%

Sl. No.	Chapter / Heading/ Subheading /Tariff item	Description of Goods
(1)	(2)	(3)
441A	9508	"Travelling Circuses and Travelling menageries; Amusement Park Rides and Water Part amusements; Fairground Amusements, including shooting Galleries; Travelling Theatres"

6.4.3 In view of the above, it is clear that the rate of tax payable on supply of goods falling under Chapter 9508.10 of the CTA would be at the rate of 9% under the CGST Act, 2017 and 9% under the Karnataka GST Act, 2017.

6.4.4 The Applicant also submits that, if for any reasons, the supply of Go-karts does not fall under serial number 441A of Schedule-III to Notification No. 01/2017-CT (Rate) then the same are leviable to GST under miscellaneous category falling under Schedule-III of the Notification.

The relevant serial numbers of Schedule-III to Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017 is extracted as below:

SCHEDULE III - 9%

sSI. No.	Chapter / Heading/ Subheading /Tariff item	Description of Goods
(1)	(2)	(3)
453.	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI

Explanation. - For the purposes of this notification,

(i) xxxxxxxxxxxxxxxxxxxx

(ii) xxxxxxxxxxxxxxxxxxxx

(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.

2. This notification shall come into force with effect from the 1st day of July, 2017.

6. 4.5 The applicant submits that the supply of products manufactured and supplied by the Applicant does not fit under serial number 441A of Schedule-III to the notification then the same are leviable to GST at the rate of 9% under SI No. 453 of Schedule-III to the notification. The products manufactured and supplied by the applicant are classifiable as falling under Chapter 9508.10 of the Customs Tariff Act, 1975 and consequently, attracts GST at the rate of 18% either under SI No. 441A or SI No. 453 of Schedule-III to Notification No. 1/2017-CT (Rate).

PERSONAL HEARING / PROCEEDINGS HELD ON 10-02-2022

7. Shri Raghavendra B Hanjer, Advocate and Duly Authorised Representative appeared for personal hearing proceedings held on 10-02-2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the applicant and also their submissions made during the time of hearing.

10. The applicant states that they are engaged in manufacture and supply of 'amusement park ride karts' commonly known as 'Go karts', which are mainly used for joy riding or amusement ride by both children as well as adults. The Applicant submits that the products manufactured by them are designed and shaped to run or drive only on extremely smooth, specially designed tracks or closed circuits and not on track or trails where normal automobiles are able to operate.

11. The Applicant states that they were under the impression that "Go Karts" are classifiable under Chapter Tariff Heading (CTH) 9503 but were advised to classify under CTH 8703 and pay GST at 28%. So the applicant wants to know whether 'amusement park ride karts' commonly known as 'Go karts', are to be classified under CTH 8703 taxable at 28% or under CTH 9503 taxable at 18%.

12. Chapter Tariff Heading 8703 of Custom Tariff Act covers motor cars and other motor vehicles principally designed for the transport of persons including station wagons and racing cars. The relevant CTH 8703 ibid is reproduced as below:

Tariff Item	Description of Goods
8703	Motor cars and other motor vehicles principally designed for the transport of persons (Other than those of heading 8702), including station wagons and racing cars
8703 10	- Vehicles specially designed for travelling on snow; golf cars and similar vehicles:
8703 10 10	--- Electrically operated
8703 10 90	--- Other

The expression 'motor cars' or 'motor vehicle' used in the tariff heading are defined under the Motor Vehicles Act. The definition of 'Motor car' and 'Motor vehicle' as defined respectively under Section 2(26) and (28) of the Motor Vehicles Act, 1988 is reproduced as below:-

Section 2(26) Motor-car means any motor vehicle other than a transport vehicle, omnibus, road roller, tractor, motor cycle or invalid carriage;
Section 2(28) Motor vehicle or vehicle means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is

transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimeters;

13. Further as per the provisions of Section 39 of the Motor Vehicles Act, 1988 motor vehicles are not permitted to drive on roads without registration with the registering authority i.e., RTO. However, the Applicant submits that, the ARAI, an authority constituted for fitness of motor vehicles run on roads has rejected the certification as motor vehicle on the ground that, the Go-karts are not roadworthy and cannot be considered as motor vehicles within the ambit of Motor Vehicles Act. The applicant submits that as per the Motor Vehicles Act, Children below the age of 18 years are not permitted to ride or drive motor vehicles and require driving license to drive the vehicle. However, no such restrictions are imposed under any of the statute to use Go-karts by Children below the age of eighteen years.

14. From the above, it is observed that the 'amusement park ride karts' supplied by the applicant neither qualify as 'motor cars' nor as 'motor vehicle' under the Motor Vehicles Act, 1988 as they are not road worthy. They are also not designed for transport of persons and are meant only for amusement or entertainment for use on a fixed or restricted course. Hence they are not classifiable under CTH 8703.

15. We now proceed to examine whether the 'amusement park ride karts' supplied by the applicant are classifiable under CTH 9508. First schedule to the Customs Tariff Act, 1975 has been amended with effect from 01.01.2022 and the amended chapter tariff heading 9508 covers "travelling circuses and travelling menageries; amusement park rides and water park amusements; fairground amusements, including shooting galleries; travelling theatres". In the Notes to the chapter 9508, meaning of amusement park rides is given which reproduced below:-

For the purposes of heading 9508:

(a) The expression - amusement park rides means a device or combination of devices or equipment that carry, convey, or direct a person or persons over or through a fixed or restricted course, including watercourses, or within a defined area for the primary purposes of amusement or entertainment. Such rides may be combined within an amusement park, theme park, water park or fairground. These amusement park rides do not include equipment of a kind commonly installed in residences or playgrounds;

16. Since the Go Karts manufactured and supplied by the applicant are designed and shaped to run or drive only on extremely smooth specially designed surfaced tracks and the same are primarily used across the globe as an amusement ride for children and families the same may be considered as amusement park rides as per the meaning assigned to "amusement park rides" which is mentioned above.

17. The Applicant wants to know Whether the 'amusement park ride karts' commonly known as 'Go-karts' can be classified under Sl.No.441A of Schedule III of Notification No. 18/2021-Central Tax (Rate) dated 28-12-2021. Now we verify the same. Entry No.441A of Schedule III of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017 subsequently amended vide Notification No. 18/2021-Central Tax (Rate) dated 28.12.2021 is reproduced below:

SCHEDULE III - 9%

Sl. No.	Chapter / Heading/ Subheading /Tariff item	Description of Goods
(1)	(2)	(3)
441A	9508	"Travelling Circuses and Travelling menageries; Amusement Park Rides and Water Part amusements; Fairground Amusements, including shooting Galleries; Travelling Theatres"

As per the above entry, the amusement park rides are taxable at 9% CGST and 9% SGST.

18. In view of the foregoing, we pass the following

RULING

- The 'amusement park ride karts ' commonly known as 'Go-karts ' manufactured and supplied by the applicant meant solely for the purpose of joy riding or amusement or recreational purpose and are designed and shaped to suit to run or drive only on extremely smooth specially designed surfaced tracks or closed circuits, are classifiable under Chapter Tariff Heading 9508 of the First Schedule to the Customs Tariff Act, 1975.
- The 'amusement park ride karts' commonly known as 'Go-karts' manufactured and supplied by the Applicant which are not roadworthy and cannot be registered as Motor Vehicles with the Regional Transport Authority ('RTO'for short) are not classifiable as 'Motor Vehicles meant for carrying of passengers / persons' under Chapter Tariff Heading 8703 of the First Schedule to the Customs Tariff Act, 1975.
- The 'amusement park ride karts' commonly known as 'Go-karts' manufactured and supplied by the Applicant attracts GST at the rate of 18% as per Sl.No.441A of Schedule III to Notification No. 1/2017-Central Tax (Rate) dated 28-06-2017 as amended by Notification No. 18/2021 -Central Tax (Rate) dated 28-12-2021.

(Dr.M.P.Ravi Prasad)

(T. Kiran Reddy)

Member

Member

Place: Bengaluru-560 009

Date: 12-08-2022

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