

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)
(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

ARN No	AD2704200109379
GSTIN Number, if any/ User-id	27AAACC7258B1ZW
Legal Name of Applicant	M/s. Cummins India Limited
Registered Address/Address provided while obtaining user id	Cummins India Office Campus, Tower A & B, Survey No. 21, Balewadi, Pune – 411 045, Maharashtra, India
Details of application	GST-ARA, Application No. 17 Dated 02.09.2020
Concerned officer	DIVISION-V, Commissionerate PUNE-II.
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A	Category
B	Description (in brief)
	Factory / Manufacturing
	Cummins India Limited, the Applicant manufactures and sells engines, gensets, parts thereof and is engaged in some services in respect of these goods. Applicant also undertakes activity of overhaul and repair of engines and in course of these engagements or agreements is required to supply parts with services to its customers.
	Issue/s on which advance ruling required
	<ul style="list-style-type: none">• Classification of goods and/or services or both• Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term
	Question(s) on which advance ruling is required
	As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 17/2020-21/B- 86

Mumbai, dt. 21.06.2022

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively] by M/s. Cummins India Limited, the applicant, seeking an advance ruling in respect of the following questions.

1. Whether arrangement for overhaul and repair of engines are “composite supply”?

2. Whether "principal supply" in overhaul and repair of engines is 'services'?
3. And resultantly, whether the rate of tax (GST) for all supplies (consisting of parts/ sub-assemblies and repair services) is 18%?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. **FACTS AND CONTENTION – AS PER THE APPLICANT FACTS:**

2.1 *M/s Cummins India Ltd, the Applicant, manufactures diesel/natural gas engines, & power generation systems (gensets). Applicant's business, broadly comprises of three segments, namely,*

a) **Engine business:**

b) **Power System business: and**

c) **Distribution business.**

Applicant provides products, packages, services & solutions for ensuring uptime of equipment supplied, provides parts, new & rebuilt engines, batteries, varied services & customer support solutions.

2.2 *Under segment 'C' above, Applicant undertakes activity of overhaul & repair of engines which involves the customer sending engines/equipment to the Applicant who is required to render various services and supply different parts/ sub-assemblies to its customers. The arrangement is usually comprehensive and involves supply of goods and services.*

2.3 *Applicant has supplied number of engines to Oil and Natural Gas Corporation Limited ('ONGC') over several years & is contemplating entering into agreement with ONGC for overhaul & repair of engines & sub-assemblies in respect of diesel or gas engines of varied sizes/capacity. Overhaul & repair arrangement consists of modules of activities comprising of following types of functions:*

Breakdown repair activity: *is Post failure corrective action to rectify malfunctioning/failure of any component or sub-assembly of an engine, & to revive it. It may be required to replace, repair re-condition or rebuild or calibrate faulty component/sub-assembly or any other part of the engine.*



In-Frame overhaul : is a planned repair activity, carried out at pre-determined run hours/ periodic intervals wherein, major component/sub-assemblies are dismantled, cleaned, de-carbonized & prior to which a detailed inspection is carried out. Based on the condition of dismantled components/subassemblies, the same would be repaired, rebuilt, re-conditioned or replaced & such repaired, rebuilt, re-conditioned or replaced components/ subassemblies are to be assembled into the engine.

Major overhaul: entails complete stripping down of engine, including all components and sub-assemblies for detailed inspection at or after specified run-hours/ periodic intervals. Based on the condition of the dismantled components/subassemblies, the same are to be repaired, rebuilt, re-conditioned or replaced and such repaired or rebuilt or re-conditioned or replaced components/subassemblies are assembled into the engine.

- 2.4 The overhaul & repair arrangement entails performing of activities like: Inspection of engines for physical condition, deficient parts/ subassemblies & damaged items; Overhaul & repair of engine, parts/ sub-assemblies as the case may be; Mandatory replacement of parts in certain cases; Post overhaul undertake testing of the engine, parts/ sub-assemblies and Re-assembly of all parts/ goods and installation of engines.

Thus, overhaul and repair arrangements entail provision of services as well as supply of parts/ sub-assemblies. Actual composition or mix of goods supplied (i.e. parts/ sub-assemblies) vis-à-vis services provided (i.e. repair, calibration, re-installation, etc.) varies from case to case. The arrangement will also have exclusion aspects i.e. parts that are not covered by such arrangement or services that are not envisaged to be rendered.

- 2.6 Services rendered as a part of overhaul and repair activity, are independently taxable at the rate of 18% in terms of Notification No. 11/2017-C.T.(R), dt 28.06.2017, amended from time to time.

- 2.7 Goods (parts/ sub-assemblies) to be supplied as part of overhaul & repair arrangement are covered under different rate brackets as specified in Notification No. 1/2017-C.T.(R) dated 28.06.2017, amended from time to time & GST rates applicable to list of parts (goods) that will be under such overhaul and repair arrangement varies from 18% on hose flexible, gasket connection, bushing, insert valve seal oil to 28% on block cylinder, engine piston kit, crosshead valve, cylinder kit, set main bearing.

Consideration for the described activity will be 'engine model-wise rates' (fixed single price). Separate consideration has not been earmarked for the supply of services and for supply of



goods. Applicant would charge agreed rates to ONGC, irrespective of the actual value of goods used and services supplied during overhaul and repair activity.

2.8 In respect of overhaul & repair activity proposed to be provided, the objective is not for supply of parts/ sub-assemblies but is to repair and maintenance including removal of defects from engines & the subject transactions are "composite supply" comprising service as 'Principal Supply'. Therefore, the tax applicable thereon including determination of assessable value, classification, tax rate. etc. needs to be determined with reference to the principal supply comprised thereunder.

2.9 A comprehensive contract is proposed to be entered for overhaul & repair of engines & sub-assemblies. The engines have been supplied over a period & were maintained by ONGC with Applicant making supplies as it was called upon to. Now, ONGC is desirous of Applicant's comprehensive offering with the focal aspect being expert services in respect of engines. Since, the proposed overhaul and repair activity entails provision of services, as well as supply of parts/ sub-assemblies, it is necessary to refer to the definitions of 'works contract' as given in Section 2(119), 'job work' as given in Section 2(68) and 'composite supply' as given in Section 2 (30) of the Central Goods and Services Tax Act, 2017 ('CGST Act').

Repair and maintenance of any immovable property falls under ambit of 'works contract' and not otherwise. In the present facts, the engines/ sub-assemblies are dismantled and worked upon, tested, calibrated, re-fixed. Therefore, the Applicant is engaged in repair and overhaul of engines which are movable chattel, hence proposed arrangement cannot be a 'works contract'.

2.11 On a conjoint reading of Section 2(68) & Section 143 of the CGST Act, 2017, it is seen that 'job work' covers scenarios where a registered person (Principal) supplies 'inputs' to a job worker for any treatment or process, post which the Principal would either: bring back such inputs, carry out further process (if any) and thereafter supply such goods; or alternatively, Principal has an option of supplying goods (i.e. inputs post process/ treatment carried out by job worker) from the place of business of a job worker [provided the Principal declares the place of business of the job worker as his additional place of business]. In terms of Circular No.38/12/2018, the registered person on whose goods (inputs or capital goods) job work is performed is called "Principal" for the purpose of section 143 of the Act. Thus, 'job work' covers processes/ treatment which result in conversion of inputs into semi-finished/finished goods whereas repair & overhaul activity, as in the instant case, would entail carrying out treatment/process on engines belonging to ONGC. In the light of above, such arrangement would not be considered as 'job work'. Similar view was



taken by West Bengal Advance Ruling Authorities in case of **Alok Bhanuka** [2019-TIOL-93-AAR-GST] while dealing with taxability of repair and servicing of transformers.

- 2.12 As per Section 2 (30) of the CGST Act, a composite supply should consist of: two or more goods or services together; such supply should consist of taxable supplies; Goods/ services supplied are provided together in normal course of business i.e. supplies are naturally bundled and One of such supplies is 'principal supply'.
- 2.13 The impugned supply is a combination of taxable services as well as goods. The supply of service and parts/sub-assemblies are naturally bundled and further, one of supplies can be considered as 'principal supply'. Since the conditions as prescribed under Section 2(30) of CGST Act have been fulfilled, the underlying transaction can be construed as a 'composite supply'.
- 2.14 The term 'principal supply' as per Section 2(90) of the Act, signifies supply of goods or services that form the predominant element of a composite supply & all other related supplies are ancillary to such main supply. Hence, it is important to determine the 'principal supply' of the transaction.

The dominant intention of the Applicant is to overhaul and repair engines belonging to customers and as such, the supply of goods (i.e. Parts/sub-assemblies) follows as a part & parcel of providing the repair and overhaul activity. In such a case, repairing of engine and keeping them in working condition is the predominant element of overhaul & repair activity, & thus supply of service partakes the character of a 'principal supply'. Further, the Applicant would charge agreed rates to its customer i.e. ONGC, irrespective of the actual value of goods used and services supplied during overhaul and repair activity.

- 2.16 The inherent nature of repair and overhaul is that of a service comprising of various activities undertaken with an objective of restoring/ maintaining working condition of object which is being repaired/ overhauled. Hence, the dominant intention in the subject case is to receive/ provided specialized services in respect of engines and not to procure/supply specific parts/ sub-assemblies.
- 2.17 The courts, in a number of cases have ruled that, taxability of a contract would depend on dominant intention of a transaction. If the main object of transaction is transfer of property in a chattel then the same would be considered as a transaction of sale of goods even though some work/ services may be required to be performed as a part of contract. Similarly, if the main object of transaction is work or service, then the same would be considered as a transaction for service, even though it involves supply of material. In this connection, reference is



made to the Supreme Court Ruling in the case of **Commr. of Sales Tax, Madhya Pradesh v. Purushottam Premji [(1970) 26 STC 38 (S.C.)]** and **Hindustan Aeronautics Ltd. v. State of Karnataka [MANU/SC/0312/ 1983]**.

2.18 The impugned activity helps to maintain life of engines, maximize its operational efficiency & eliminate unexpected system failure. Hence, the main intention of underlying transaction is to overhaul/ repair engines belonging to ONGC and not the transfer of property in goods (i.e. parts/ sub-assemblies) to ONGC. Applicant refers the clauses of the tender document dated 15.11.2018 issued by ONGC (enclosed as Exhibit A) which reveals that the purpose of proposed transaction / predominant intention of ONGC is to receive services rendered by the Applicant. The proposed contract is not intended to be framed as a part sale agreement with identified items (to be supplied) and rates for the same. Rather, the skills and resources of the Applicant are intended to be used on ongoing basis to enable continued use/ efficiency of engines. It emerges that the predominant intention of the transaction is repair and overhaul services of engines to keep the same in un-impaired and operating condition & supply of parts/ sub-assemblies, is not the focal element of the proposed transaction. Also, it is not possible to identify parts/ sub-assemblies that will be supplied during overhaul and repair activity. The principal object of subject activity is to provide services and in other words, the 'principal supply' of the transaction is service. Applicant also refers to the Advance Ruling pronounced by the Rajasthan Authority for Advance Ruling in case of **Sandvik Asia Private Limited [TS/694-AAR-2018-NT]** and also the advance ruling pronounced in case of Applicant itself i.e. **Cummins India Limited [2019 (23) G.S.T.L. 356 (A.A.R. -GST)]**, wherein Hon'ble AAR, Maharashtra dealt with taxability of composite supply for maintenance of engines vide an Annual Maintenance Contract ('AMC').

2.20 Admittedly the periodicity, type of parts/ sub-assemblies to be supplied & proportion/ mix of goods & services to be supplied under an AMC contract vis-à-vis an overhaul and repair contract of the present kind are different, yet, the inherent nature of activities & more importantly, predominant intention in both these contract is the same i.e. rendition of specialized services involving engines. Hence, the said ruling and the principle laid down can be applied to this arrangement.

2.21 Based on the foregoing, overhaul & repair activity is a composite supply of services as well as goods and the Principal supply is that of a service. Resultantly, rate of tax applicable to services i.e. 18% would be applicable to all supplies under present arrangement.



APPLICANT SUBMISSION DATED 08.04.2022

2.22 The Applicant clarifies the scope of supplies on its part and otherwise as under:

Sr. No.	Arrangement (Activity)	Supply of services	Supply of parts and / or sub-assemblies	Remarks
A	Breakdown repair	Covered in the scope of Applicant.	<u>Not covered</u> in the scope of Applicant. Parts and /or sub-assemblies required for undertaking breakdown repair would be provided by ONGC Limited In Annexure III, Clause B, para 1.3 of the proposed tender clarifies that the work centres of ONGC Limited will provide the spares required for breakdown repair.	This limb of the proposed tender thus comprises only of services to be supplied by the Applicant. It is noticeable that (As per Ann III of the proposed tender document), this arrangement will be performed "in-situ", i.e. at the site.
B	In-frame overhauling (also referred to as "Top Overhauling")	Covered in the scope of Applicant	<u>Not covered</u> in the scope of Applicant. Parts/sub-assemblies required for undertaking in-frame overhaul would be provided by ONGC Limited. In Annexure III, Clause B, para 1.3 of the proposed tender clarifies that the work centres of ONGC Limited will provide the spares required for in-frame overhauling.	This limb of the proposed tender thus comprises only of services to be supplied by the Applicant. It is noticeable that (Ann III of proposed tender document), this arrangement will be performed "in-situ", i.e., at the site.
C	Major overhaul (also referred to as "Engine Overhauling")	Covered in the scope of Applicant	<u>Covered and part of the scope of supply to be made by the Applicant.</u> No restrictive clause as to supply of goods, i.e., <u>there is no prescription</u> that the goods (spares, parts, etc.) will be supplied by ONGC Limited.	Composite supply (offering) by the Applicant, wherein the principal requirement is rendition of services
D	Overhaul / repair of sub-assemblies	Covered in the scope of Applicant	<u>Covered and part of the scope of supply to be made by the Applicant</u> – refer Annexure III (clause C) of the proposed tender. No restrictive clause as to supply of goods, i.e., <u>there is no prescription</u> that the goods (spares, parts, etc.) will be supplied by ONGC Limited.	Composite supply (offering) by the Applicant, wherein the principal requirement is rendition of services

2.23 Activities mentioned in 'A' and 'B' above involve only supply of services and Applicant would not be called upon to supply any goods under these arrangements. Arrangement as at 'C' & 'D' above entails provision of services as well as supply of goods. The actual composition or mix of goods supplied (i.e., parts and / or sub-assemblies) vis-à-vis services provided (i.e., repair, calibration, re-installation, etc.) would vary from case to case and no estimate is available for the same.

2.24 Applicant reiterates that activities & arrangements of breakdown repair and top overhauling ('A' and 'B' above) being pure services, are not required to be ruled upon and so, the Applicant

limitedly withdraws its application, to this extent. Further, the Applicant, seeks an advance ruling only in respect of 'C' (major overhaul) and 'D' (overhaul / repair of sub-assemblies).

2.25 In the following paragraphs are submissions, in respect of both "major overhaul" & "overhaul / repair of sub-assemblies", both of which arrangements independently constitute composite supplies of goods & services, wherein principal supply is that of services.

- Applicant routinely enters into contracts for sale of goods (engines, parts, etc.) and separately for services (labour contracts). However, present arrangement involves coupling of goods & services to ensure continued functioning of the Cummins engines or sub-assemblies, as the case may be.
- Impugned activity covers supply of 'service of repair' & 'supply of parts/sub-assemblies' as may be required. Consequently, such supply constitutes a naturally bundled arrangement, intrinsically linked with each other. Even the tenure clause of tender document indicates that the arrangement is for continual activity involving both goods & services. The Hon'ble Gujarat High Court in **Torrent Power Ltd. vs. Union of India [2020 (34) G.S.T.L. 385 (Guj.)]**, has laid down the test of "direct and close nexus" when testing a supply for being "naturally bundled".

- The tender is not a sale arrangement simplicitor and the various clauses in the tender document indicate that the focus is on service element. Applicant therefore relies on **GST flyer** issued by the CBIC, which dovetails the salient aspects of composite contract (naturally bundled arrangement), which is satisfied by the Applicant. Applicant relies on the judgement of the Hon'ble Kerala High Court in **Abbott healthcare P. Ltd. vs. CCT [2020 (34) G.S.T.L. 579 (Ker.)]**, wherein it was held that the practice holding the field / custom must be given due regard and importance.

- The dominant intention (objective) of Applicant is to overhaul & repair engines or sub-assemblies, belonging to customers & in course, supply goods as a part of & parcel of providing the repair & overhaul activity i.e. the object of the contract is to remove defects, maintain the engines & sub-assemblies, upkeep of engines & sub-assemblies, ensure uptime (functioning) of these engines & sub-assemblies. Repairing of engine or sub-assemblies & keeping them in working condition is the dominant intention of the impugned activity & thus supply of service is the 'principal supply'.
- The actual composition of goods supplied vis-à-vis services provided varies from case to case. Yet, separate consideration has not been earmarked for supply of services and for supply of goods. **More importantly, Applicant will charge agreed rates to its customer, irrespective of the actual value of goods used & services supplied during overhaul and repair activity.** An



estimate of goods and services values (in the present tender) is not feasible, and therefore it is altogether irrelevant in deciding whether an arrangement is for the principal supply of goods or services.

- The Applicant places reliance on following precedents which support the claim that 'service' forms principal supply of repair and overhaul activity (viz. "major overhaul"):
 - **Alok Bhanuka [2019-TIOL-93-AAR-GST]**
 - **Sandvik Asia Private Limited [TS/694-AAR-2018-NT]**
 - Advance ruling pronounced in another case of the Applicant i.e., **Cummins India Limited, reported in [2019 (23) G.S.T.L. 356 (A.A.R. - GST)]**.
- In light of above, it is submitted that principal object of "major overhaul" and "overhaul / repair of sub-assemblies" is to provide services and, in the course thereof supply parts/sub-assemblies.

2.26 In view of above submissions, overhaul & repair activity covered in 'C' above i.e. "**major overhaul**" as also '**D**' above (i.e. **overhaul / repair of sub-assemblies**) is a composite supply, wherein the principal supply is that of service. Resultantly, rate of tax applicable to services i.e., 18% would be applicable to all supplies under present arrangement (tender).

03.

CONTENTION – AS PER THE CONCERNED OFFICER:

Office Submission dated 09.07.2021:

The departments comment/stand in this regard is as follows:-

3.1

As per the definition of the term "composite supply" under the CGST Act, 2017, for a supply to be a composite supply, supply of goods & services are to be provided as a package & different elements of the supply should be integral to the supply i.e. if one or more element is removed, the nature of the supply would be affected.

3.2

In order to understand the scope of a composite supply' and also to know what may be the criteria to judge a supply as a composite supply', the CBIC has published an e-flier on the subject, as per which, 'Composite Supply' entails the concept of 'naturally bundled supply', and whether elements of the supply are bundled in the ordinary course of business would depend upon the normal or frequent practice followed in the area of business. It also says that in order to qualify for a composite supply one of the characteristic would be that 'none of the individual constituents of the supply are able to provide the essential character of the service.'

3.3

Applicant's contention that the impugned supply is classifiable under Composite Supply, is not tenable. From reading the entire contract between the applicant & ONGC Ltd. as well as from the definition of composite supply, it can be clearly said that the proposed supply is far from being



described as a composite supply as the applicant had before this agreement use to only provide the Engines of different specifications to ONGC without any other specific contract for repair and overhaul of their engines. Hence, it can be said that the two elements of subject supply i.e. the supply of the parts while undertaking the repair or overhaul and the supply of service of repair and overhaul of the engine both can have an independent characteristic of their own in the supply i.e there can be an agreement for only supply of parts as and when needed by ONGC for repair of their engine by other third party too. Hence, this means the agreement for overhaul & repair of the engines does not constitute the "Composite supply".

3.4 Hon'ble AAR, Kerala in M/s Vista Marine & Hydraulics in Advance Ruling No. KER/58/2019 decided on September 16, 2019 has held that the activity of rendering repairing services for boats/vessels along-with supply of spares and accessories cannot be considered as a composite supply as the supply of spare parts/accessories and repair service are distinct and separately identifiable supplies for which the rates are quoted differently.

3.5 Supply of spares parts/accessories & repair service are distinct & separately identifiable supplies for which the rates are quoted differently & work orders are issued separately specifying the spares /accessories to be supplied & services to be supplied & rates applicable thereon as per quotation in the Repair Rate Contract can't be considered as a composite supply. Where a supply involves supply of both goods & services & the value of such goods & services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

3.6

Also regarding the contract made for overhaul & repair services, the applicant is well aware about the parts which would suffer wear and tear and need to be replaced by the applicant. Further, the applicant in their contract named 'RATE CONTRACT FOR OVERHAUL AND REPAIR OF CUMMINS MAKE ENGINES AND SUB-ASSEMBLIE', in the Annexure IV Price schedule format - Overhaul/rebuild of Sub-assemblies shows the minimum items which shall be replaced /reconditioned for major overhaul by the applicant. The same is reproduced herewith for the reference.

Price schedule

4.3 The rates indicated for the jobs carried out at Rebuild centers /Authorised dealership service center shall be inclusive of spare parts, sub-assemblies and labour. OEM shall obtain approval of ONGCL for replacement of major components failures such as crankshaft or cylinder block on additional charges basis.

- 1 List of minimum items which are replaced/reconditioned for major overhaul are indicated at Table-4. These components are categorized as mandatory items and condition based items. Whenever there is any technical improvement to specific parts, materials, manufacturing process or design, the old parts shall be replaced with the upgraded ones.

Table – 4: Indicative list of minimum items which shall be replaced / reconditioned for major overhaul

A. Mandatory items for replacement		B. Replacement: conditioned based (items if found damaged) (non-chargeable)	
SL	Description	SL	Description
1	Kit piston & rings	1	Manifold, air intake
2	Liner, cylinder	2	Crankshaft (Chargeable if non serviceable)
3	Elbow, male adapter	3	Camshaft RB
4	Elbow, plain street pipe	4	Camshaft LB
5	Element, lub oil filter	5	Cylinder head
6	Gasket, adapter	6	Lub oil pump
7	Set main bearing std.	7	Water pump
8	Valve, shutdown	8	Injector
9	Kit, STC white smoke	9	PT pump
10	Filter, lubricating	10	Connecting rod
11	Elbow, male union	11	Core, after-cooler
12	Screw, hexagon head cap	12	Kit, turbocharger
13	Gasket sets (upper & lower)		
14	Hoses & belts		
15	Rod, push		
16	Damper, vibration		
17	Thermostats		
18	Bushings and bearings		
19	Repair/recon of sub-assemblies:		
20.1	Water pump		
20.2	Lube pump		
20.3	Turbo charger		
20.4	Injectors		
20.5	Fuel pumps		
20.6	Connecting rods		
20.7	Cylinder heads		
20.8	Accessory drives		
20.9	Cam followers		
20.10	Rocker levers		

- 3.7 Hence, it is evident that, applicant can supply these parts individually & also along with the package of services too. Supply of parts & services are known & can be supplied individually to

the customers, hence, these supplies fall under services specified under Section 2(74) of the CGST Act, 2017 & are chargeable to GST at applicable rates such as 12%, 18%, 28%, etc. whichever is higher.

- 3.8 As per Section 2 (74) of GST Act, "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. In the present case applicant can supply the parts or services individually or any combination thereof on a single price which is appropriately covered under mixed supply."

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 29.06.2021 Authorized Representatives of the applicant, Shri. Ranjit Mahtani, Advocate, Shri. Ruturaj Bhide, CA, Shri. Deepak Bahirwani, were present. Jurisdictional officer Shri. Raju Shelkande, Superintendent, Division V, Pune was also present. The Authorized Representatives made oral submission with respect to admission of their application.

The application was admitted and Final e-hearing was held on 08.03.2022. The Authorized representative of the applicant, Shri. Ranjeet Mahtani, Advocate, Shri. Deepak Bahirwani, Tax Head, Shri. Ruturaj Bhide, Advocate & Shri. Rajat Puri, Indirect Tax Head were present. Jurisdictional officer Shri. P.P. Karvande, Superintendent, Division-V, Pune-II was also present. Both the parties were heard.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have gone through the facts of the matter, documents on record and submissions made by the applicant as well as the jurisdictional officer.
- 5.2 M/s Cummins India Limited, the Applicant is a manufacturer of diesel engines and natural gas engines, and power generation systems i.e. Gensets. In addition to this, the applicant also undertakes the activity of overhaul and repair of engines belonging to customers and as a part of this overhaul and repair activity, the applicant is generally required to render various services and supply different parts/sub-assemblies to its customers. The applicant is contemplating entering into an agreement with Oil and Natural Gas Corporation Limited (ONGC) for overhaul and repair of engines and sub-assemblies and has submitted that the subject application is made in respect of the proposed transaction to be undertaken as per the Tender issued by ONGC on the basis of which the applicant will be entering into an Agreement with ONGC.



5.3 The applicant has contended that:

- i) Arrangement for overhaul and repair for ONGC is “composite supply”;
- ii) The “principal Supply” is that of ‘service’ and
- iii) Consequently, the rate of tax (GST) for all supplies (consisting of parts/sub-assemblies and repair services) is 18%.

5.4 From the submissions made by the applicant and the Tender Document it is clearly seen that the Tender conditions visualize a supply of goods as well as supply of services. The applicant feels that the impugned supply is a ‘composite supply’ where the principal supply is ‘supply of service’ and therefore according to the applicant GST will be leviable on the impugned supply at 18% being the rate of tax on the principal supply. According to the submissions the consideration for the described activity will be fixed single price and separate consideration has not been earmarked for the supply of services and for supply of goods. While the entire submissions made by the applicant are based on the premise that the impugned supply under the subject Tender is a single composite supply, we find that the applicant, in its submissions dated 08.04.2022 (Para Nos 2,3 and 4) has divided the supply under the Tender into 4 different supplies mentioned as A, B, C and D in the Table at Para 2 of the submissions dated 08.04.2022 and have further submitted that, “activities and arrangements of breakdown repair and top overhauling (‘A’ and ‘B’ above) being pure services, are not required to be ruled upon and so, the Applicant limitedly withdraws its application, to this extent”. Thus, the applicant has itself stated that the impugned supply can be sub divided into 4 types of supplies out of which it wants this Authority to consider only 2 types of supplies for decision. In other words, it means that the supply under the impugned Tender cannot be considered as a single composite supply of goods and services or both which are naturally bundled because the applicant itself has divided the Tender into 4 different supplies.

5.5 Further, we observe that the Tender is for one Work Order comprising of different types of activities and arrangements all under one document and the applicant wants this Authority to divide the impugned activities artificially in four parts and answer the questions pertaining only to Part ‘C’ and ‘D’. Such division of the single Tender to answer particular situations and ignore other situations will not be the right way to go forward and therefore this Authority will not be able to answer the questions raised by the applicant. Hence the questions raised by the applicant in respect of activity mentioned in “C” and “D” of the Table above, are not being answered.



06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus –

Question 1: - Whether arrangement for overhaul and repair of engines are “composite supply”?

Question 2: - Whether “principal supply” in overhaul and repair of engines is ‘services’?

Question 3: - And resultantly, whether the rate of tax (GST) for all supplies (consisting of parts/ sub-assemblies and repair services) is 18%?

Answer:- None of the three questions are answered in view of discussions made above.



**RAJIV MAGOO
(MEMBER)**

**T. R. RAMNANI
(MEMBER)**

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint Commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.