

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
**GST Bhavan , 8<sup>th</sup> floor, H wing ,New building, Mazgaon, Mumbai-400010.**

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

**BEFORE THE BENCH OF**

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAACE 2832K1ZP : 271800000918 ARB
Legal Name of Applicant	EMMES METALS PRIVATE LTD
Registered Address/ Address provided while obtaining user id	147, GOVERNMENT INDUSTRIAL ESTATE, CHARKOP, KANDIVLI (WEST) MUMBAI-400067
Details of application	GST-ARA, Application No. 80 Dated 26.09.2018
Concerned officer	Dy. Commr. of S.T.(E-202) Nodal -9, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory / Manufacturing
B Description (in brief)	Clarification regarding concessional rate of GST to be charged 5% instead of 18% on supply Of goods " Aluminium Alloy( HSN 760120) (not no.-47/2017)
Issue/s on which advance ruling required	(ii) applicability of a notification issued under the provisions of the Act
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

**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"] by M/S. EMMES METALS PRIVATE LTD, the applicant, seeking an advance ruling in respect of the following question.

- a) *Whether the Material Aluminium Alloys (HSN.76012010) can be supplied under Govt. Notification no. 47/2017 dated 14.11.2017 ?*

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, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

**02 FACTS AND CONTENTION - AS PER THE APPLICANT**

The applicant has an order from M/s Gas Turbine Research Establishment (hereinafter referred to as 'GTRE') for supply of Aluminium Alloy (HSN Code No.76012010). GTRE have informed the applicant that they are entitled for availing concessional rate of GST @ 5%, as per Notification No. 47/2017. The applicants submitted that in the said notification, in the column no. (3), the under description of goods, the item "Aluminium Alloy" is not mentioned and therefore the said concessional rate of 5% is not applicable and full 18% GST is to be applied. GTRE are claiming concessional rate of 5% GST on "Aluminium Alloy" as per column no. (4).

Thus the applicant is requesting for a ruling as to the applicable rate of GST to be charged in the subject case.

**03. CONTENTION - AS PER THE CONCERNED OFFICER**

The jurisdictional office has submitted that the GST rate on Aluminium Alloy [HSN 76012010] is 18% and has stated that the applicant, has relied upon Notification No.47/2017 issued by the Govt. of India wherein IGST in excess of 5% has been exempted when the goods mentioned therein are supplied to a public funded research institute subject to specified conditions.

The jurisdictional office has submitted that it is clear from the documents that the condition laid down at Sr. 1 (i) (a) of the Notification has been complied. As per the condition laid down at Sr. 1 (ii) of the said Notification, the Institution Head must certify that the said goods are required for research purposes only. However as per the certificate issued by the Director of GTRE and submitted by the applicant, there is no clear mention that the subject goods required are only for research purpose. Except this, other conditions are fulfilled.

**04. HEARING**

The Preliminary hearing in the matter was held on 04.12.2018, Ms. Rekha Rathod accountant along with Sh. Nitin Patel, Accountant appeared and requested for admission of application as per contentions made in their application. Jurisdictional Officer Sh. G. G. Gaikwad, Dy. Commissioner of S.T.(E-202) Nodal division -9, Mumbai, appeared and made written submissions.

The application was admitted and called for final hearing on 19.12.2018. Ms. Rekha Rathod accountant along with Sh. Nitin Patel Accountant, appeared and submitted copy of certificate issued by the Recipient. In this regard they were requested to explain how the Aluminium Alloys are consumables. Jurisdictional Officer Sh. G. G. Gaikwad, Dy. Commissioner of S.T.(E-202) Nodal division -9, Mumbai, appeared and objected to the applicability of notification. We heard both the parties.





## 05. OBSERVATIONS

5.1 We have gone through the facts of the case, documents on record and submissions made by both, the applicant and the jurisdictional office. The issue before us is in respect of applicability of Notification for the supply of Aluminium Alloy which would be on the lines thus -

5.2 The applicant, a registered person under the GST Act and a manufacturer of Non Ferrous Alloys & Castings and Aluminum Alloy has received an order from Gas Turbine Research Establishment (GTRE) a public funded Government Research Organization under the Ministry of Defence, for supply of Aluminium Alloy (HSN Code No.76012010) for which they claim that concessional rate of GST @ 5% is applicable, as per Notification No. 47/2017 dated 14.11.2017 and accordingly the present application has been filed.

5.3 We find that the applicant is desirous to know regarding applicability of Notification No. 47/2017 dt. 14.11.2017 in respect of supply of Aluminium Alloys to GTRE. Hence the issue before us is to examine the applicability of Notification No. 47/2017 dated 14.11.2017 to the subject transaction of supply between the applicant and the GTRE. We shall now reproduce the said Notification as below:-

### **Notification No. 47/2017-Integrated Tax (Rate)**

**New Delhi, the 14th November, 2017**

G.S.R....(E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) ( hereafter in this notification referred to as "the said Act"), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the goods specified in column (3) of the Table below, from the so much of the integrated tax leviable thereon under section 5 of the said Act, as in excess of the amount calculated at the rate of 5 per cent., when supplied to the institutions specified in the corresponding entry in column (2) of the Table, subject to the conditions specified in the corresponding entry in column (4) of the said Table-

**Table**

S. No.	Name of the Institutions	Description of the goods	Conditions
1	2	3	4
1.	Public funded research institution other than a hospital or a University or an Indian Institute of	(a) Scientific and technical instruments, apparatus, equipment (including computers); (b) accessories, parts, consumables and live animals (experimental	(i) The goods are supplied to or for - (a) a public funded research institution under the administrative control of the Department of Space or Department of Atomic Energy or the Defence Research Development Organisation of the Government of India and such institution produces a certificate to that effect from an officer not below the

	Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College	purpose); (c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches; (d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in financial year.	rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory in the concerned department to the supplier at the time of supply of the specified goods; or  (b) an institution registered with the Government of India in the 2 Department of Scientific and Research and such institution produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union territory in concerned department to the supplier at the time of supply of the specified goods;  (ii) The institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying that the said goods are required for research purposes only;  (iii) In the case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals
2.	Research institution, other than a hospital	(a) Scientific and technical instruments, apparatus, equipment (including computers);  (b) accessories, parts, consumables and live animals (experimental purpose); (c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches;  (d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in a financial year.	(1) The institution is registered with the Government of India in the Department of Scientific and Research, which-  (i) produces, at the time of supply, a certificate to the supplier from the head of the institution, in each case, certifying that the said goods are essential for research purposes and will be used for stated purpose only; (ii) in the case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for 3 research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals.  (2) The goods falling under (1) above shall not be transferred or sold by the institution for a period of five years from the date of installation.

5.4 We find that the tax rate of 5% as per above Notification is applicable in respect of supply, made to Public funded research institutions other than a hospital or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute



Technology/ Regional Engineering College, of the description of the goods in Column no .(3) of the table, subject to the conditions specified in column no. (4) of the said table.

5.5 We find from the transaction between the parties that the same is a supply of "Aluminum Alloy". We have no doubt that the recipient of the supply i.e. "GTRE", is a Government Public Funded Research Institution. As per the above Notification, goods specified in column no. (3) are liable to tax @ 5% subject to conditions mentioned in the corresponding column no. 4. The goods mentioned are specific and restricted for the purpose of notification for example: (a) Scientific and technical instruments, apparatus, equipment (including computers); (b) accessories, parts, consumables and live animals (experimental purpose); (c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches; and (d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in financial year.

5.6 We find that the applicant has supplied "Aluminium Alloy" having HSN Code No.76012010, which is not a "Scientific and technical instrument, apparatus, equipment, or accessories, parts, consumables and live animals (experimental purpose); or computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches or Prototypes, the aggregate value of prototypes".

5.7 During the course of hearing, the learned representatives of the applicant were asked to establish whether supplied goods are covered under the said Notification. In response the applicant submitted a certificate given by the Government of India Ministry of Defence, New Delhi which is reproduced as below.

*"This is to certify that GAS TURBINE RESEARCH ESTABLISHMENT(GTRE), Bangalore, is a public funded institution under the administrative control of the Department of Defence Research and Development of the GOI and is entitled to avail concessional rate of tax @5 % in terms of Govt. Notification no. 47/2017 Integrated Tax (Rate) Dt. 14.11.2017".*

From a perusal of the said certificate, we find from that recipient is a public funded institution and Notification No. 47/2017 is applicable in respect of supplies made to them but only goods specified in the column no. (3) of the table in the Notification are liable for concessional rate of tax @ 5%. Thus goods other than those mentioned in the said Notification are not to be liable for concessional rate of 5% tax, except the goods having originally been held as a 5% in the schedule entries. The said certificate has not certified that "Aluminum Alloy" supplied by applicant is used in the research of recipient and is covered under the said Notification.

5.8 In view of the above, we find that the goods i.e "Aluminum Alloy" having HSN Code No.76012010, supplied by the applicant to GTRE is not eligible for concessional rate of GST and Notification No. 47/2017, IGST (Tax) dt .14.11.2017, is not applicable to the transaction



undertaken by the applicant. The subject supply will be liable as per rate prescribed in Schedule of GST Act i.e. @ 18 %.

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)

NO.GST-ARA- 80/2018-19/B- 174 Mumbai, dt. 29/12/2018

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

**Question :-** Whether the Material Aluminium Alloys (HSN.76012010) can be supplied under Govt. Notification no. 47/2017 dated 14.11.2017

**Answer :-** Answered is in Negative.



—sd—  
**B. TIMOTHY**  
(MEMBER)

—sd—  
**B. V. BORHADE**  
(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. Joint commissioner of State Tax , Mahavikas for Website.

**CERTIFIED TRUE COPY**  
  
**MEMBER**  
**ADVANCE RULING AUTHORITY**  
**MAHARASHTRA STATE, MUMBAI**

**Note :-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai - 400021.