

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

**GST Bhavan, Old Building, 1st floor, B-Wing, Room No.107, Mazgaon, Mumbai – 400010.**

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

**BEFORE THE BENCH OF**

**(1) Shri. D. P. Gojamgunde, Joint Commissioner of State Tax, (Member)**

**(2) Ms. Priya Jadhav, Joint Commissioner of Central Tax, (Member)**

ARN No.	NA
GSTIN Number, if any/ User-id	27AABCT2018B1ZY
Legal Name of Applicant	M/s. Cummins Technologies India Private limited
Registered Address/Address provided while obtaining user id	Cummins India Office Campus, Tower A, Balewadi High Street, Balewadi, Pune – 411 045, Maharashtra, India.
Details of application	GST-ARA, Application No. 72 Dated 03.02.2021
Concerned officer	Division-V Khadakwasla, Commissionerate-Pune-II
<b>Nature of activity(s) (proposed/present) in respect of which advance ruling sought</b>	
A	Category
B	Description (in brief)
	Factory / Manufacturing
	Cummins Technologies India Private Limited ('CTIPL' or 'the Applicant') is a part of Cummins India Group and is engaged in manufacture and sale of products, including exhaust after treatment system and allied components. The applicant also provides services relating to turbo technologies, emission solutions, fuel systems etc.
Issue/s on which advance ruling required	i) Classification of goods and/or services or both
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” respectively] by **M/s. Cummins Technologies India Private limited**, the applicant, seeking an advance ruling in respect of the following questions.

- 1. Whether ATS (exhaust after-treatment system) also known as EGP (exhaust gas processor), which is a purifying and filtering apparatus/ equipment is classifiable under tariff heading 84213990 of the Customs Tariff (as is relevant for GST regime), and consequently for GST Law under Serial No. 322 of Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017?**
- 2. If ATS cannot be classified under tariff heading 84213990 whether it merits classification under tariff heading 8708 of the Indian Customs Tariff (as applicable to GST Law)?**

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.

#### **01. FACTS AND CONTENTION – AS PER THE APPLICANT**

- 1.1.** The applicant is a part of Cummins India Group. The Applicant is engaged in manufacture and sale of products and provide services relating to turbo engine technologies, emission solutions, fuel systems etc.

- 1.2. The Applicant's business encompasses eight divisions *viz.* Cummins Turbo Technologies, Cummins Emission Solutions ('CES'), Cummins Business Services, Cummins Fuel Systems India, Cummins Technical Centre India, Phaltan Engine Plant, Global Analytics Centre and Supply Chain Operations ('SCO').
- 1.3. The CES division is engaged *inter alia* in manufacture and supply of exhaust after-treatment system ('ATS') and other components for motor vehicles/automobiles having medium duty, heavy duty and high horsepower engines. This application is in respect of commercial operations of CES division involving manufacture and supply of ATS. ATS and other allied components are critical components of automobiles, inasmuch as it monitors and manages the exhaust and emission being within the standards prescribed. It is worthy of mention here that India embraced the Bharat Stage VI standard for emission norms, as prescribed by the Ministry of Road Transport and Highways.
- 1.4. The supply streams undertaken by CES division can be bifurcated as below:
- a. **First-fit supply** - the Applicant supplies the below described commodities to various original equipment manufacturers ('OEM') in the automobile industry for use in and during manufacture of motor vehicles. The following are the different supplies as part of this arrangement:
    - An assembly of ATS, also known as Exhaust Gas Processor ('EGP'), also referred to as 'Subject Goods' in this Application **and**
    - Other allied components required for operationalizing and functioning of the ATS, *viz.* DEF lines, tank with sensors and the supply unit.

- b. **Second-fit/ After-sale market supply** - the Applicant supplies various parts and components of ATS as well as components such as DEF lines, tank with sensors. As the name indicates these are for the secondary or after-sales market and is for the purposes of repair, replacement, maintenance.

1.5. Brief description about the functionality of ATS and other allied components required for operationalizing and functioning of the ATS, viz. DEF lines, tank with sensors and the supply unit is provided here:

- a. **ATS** is an equipment used for filtering and purifying the harmful gases emitted as a result of combustion of fuel in the engine into harmless gases which conform with the emission regulation requirement. The ATS converts carbon monoxide ('CO') into carbon dioxide ('CO<sub>2</sub>'), nitrogen Oxides ('NO<sub>x</sub>') into Nitrogen ('N<sub>2</sub>') Water (H<sub>2</sub>O), and carbons into CO<sub>2</sub>, and traps the residual carbon in the filter.
- b. ATS is an assembly comprising the following components:
  - i. Diesel Oxidized Catalyst ('DOC') - DOC reduces the particulate matter, carbon monoxide and hydrocarbons through the process of oxidation.
  - ii. Diesel Particulate Filter ('DPF') - DPF collects particulate matter (Soot and Ash) from engine, Soot can be combustible by chemical and thermal means and that of Ash is non-combustible.
  - iii. Selective Catalytic Reduction Catalyst ('SCR Catalyst') - SCR catalyst converts nitrogen oxide into nitrogen, water, tiny amounts of CO<sub>2</sub> through chemical reactions
  - iv. Ammonia Slip Catalyst ('ASC') - ASC catalyst converts Non-utilized NH<sub>3</sub>/Urea from SCR catalyst



- v. Mixer - The primary function of the mixer is to mix Urea with the exhaust gases thoroughly in the specified quantity by creating turbulence.
  - vi. Dozing unit - Dozing unit is used to inject the Diesel Exhaust Fluid ('re-agents') in the pre-defined quantity and at a pre-defined time according to the temperature in the EGP as instructed by the Electronic Control Unit ('ECU')
  - vii Sensors-Variou sensors are used to monitor the temperature/pressure of gases in the ATS/ EGP. Sensors send appropriate signals to the ECU to determine the quantity of reagents to be pumped in the dozing unit.
  - c. **DEF lines** comprise a set or kit of tubes, connectors, couplings, and nuts and bolts for transporting the re-agents from the tank to the dozing unit at very high pressure.
  - d. **Tank with sensors** is a tank to store the re-agents. The re-agents are supplied from the tank through the supply unit to the Dozing Unit based on the signals received from the ECU.
  - e. **Supply unit** pumps the re-agents from the tank to the dozing unit. It is a pump with a motor which creates and maintains high pressure for continuous supply of re-agents to the dozing unit.
- 1.6. In case of the first-fit supply, separate purchase orders are placed by OEM for supply of:
- ATS (The sample purchase order is attached here with the application);
  - Other allied components viz. DEF lines, tank with sensors and supply unit (The sample purchase order is attached here with the application).
- Accordingly, the applicant supplies ATS and other allied components under separate invoices (corresponding to the separate purchase orders).

Sample set of separate invoices for ATS and other allied components are enclosed with the application, respectively.

- 1.7. The following documents and material are relevant for this application:
  - a. Technical material describing ATS (enclosed with the application)
  - b. Chartered engineer's certificate which specifies that ATS i.e. assembly comprising of DOC, DPF, SCR catalyst, ASC, mixer, dozing unit and sensors functions as a filtering or purifying machinery and apparatus for gases (enclosed with the application).
- 1.8. This application is to ascertain the classification of ATS/ EGP, supplied by the Applicant as part of first-fit supply and which is integrated into and fitted to the exhaust system of the motor vehicles which fall for classification under Chapter 87 of the Customs Tariff Act, 1975 ('Customs Tariff Act'), specifically under tariff heading number 8701, 8702, 8703, 8704 and 8705. Such ATS has now become a critical component of new motor vehicles manufactured after 1 April 2020, owing to the Bharat Stage VI emission norms with which the motor vehicles are required to be fitted and manufacturers obliged to comply with. It is highlighted that India's Bharat Stage VI is the equivalent of Euro VI and in China VI, and so all of these emission standards or norms are similar.
- 1.9. Classification of ATS, is the issue at hand and it may be covered under different chapter headings under the Customs Tariff Act, 1975, which is adopted by the GST Law. Notification No. 1/2017-Central Tax (Rate), dated 28<sup>th</sup> June 2017, amended from time to time, *inter alia* specifies different CGST rates (for equivalent SGST rates Notifications are issued by States) for the goods, under different schedules. Similarly, Notification No. 1/2017-Integrated Tax (Rate), dated 28<sup>th</sup> June 2017 prescribes the IGST rates for goods.

1.10. Classification for purposes of GST Law, reverts to the Customs Tariff – refer explanation (iii) to the Notification 1/2017- Central Tax (Rate), dated 28<sup>th</sup> June 2017. For the purposes of classification of ATS, reproduced here are relevant entries of the Customs Tariff Act, 1975 under which filtering or purifying machinery and apparatus supplied to the automobile OEM is classifiable:

Chapter heading under the Customs Tariff Act	Description of goods	GST rate (cumulative)
8421	<i>Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases</i>	18%
8708	<i>Parts and accessories of the motor vehicles of headings 8701 to 8705 [other than specified parts of tractors]</i>	28%

1.11. As the Applicant will be making supplies of ATS in a new regulatory regime (under the revised norms of Bharat Stage and the GST Law), and after considering the position in other jurisdictions (global best practices), ATS being a filtering or purifying equipment / machinery for gases, apparently falls for classification under heading 8421. The Applicant has, in the past, classified ATS under Chapter 8708 of the Customs Tariff by regarding it as ‘parts of motor vehicles of heading 8701 to 8705’. In view of this described ambiguity and so as to ascertain the correct classification of ATS the Applicant, by this application for advance ruling, wishes to ascertain:

- (i) Whether ATS (exhaust after-treatment system) also known as EGP (exhaust gas processor), which is a purifying and filtering apparatus / equipment is classifiable under tariff heading 84213990 of the

Customs Tariff (as is relevant for GST regime), and consequently for GST Law under Serial No. 322 of Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017?

- (ii) If ATS cannot be classified under tariff heading 84213990 whether it merits classification under tariff heading 8708 of the Indian Customs Tariff (as applicable to GST Law)?

**02 STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS**

2.1. The Applicant supplies exhaust after-treatment system ('ATS', also known as Exhaust Gas Processor ('EGP'), also referred to as 'Subject Goods') and other allied components required for operationalizing and functioning of the ATS viz. DEF lines, tank with sensors and supply unit, for exhaust systems of motor vehicles having medium duty, heavy duty and high horsepower engines, as part of first-fit i.e. for original manufacture of motor vehicles. The Applicant has been classifying the Subject Goods under Chapter 8708 by considering these as 'parts of motor vehicles of heading 8701 to 8705'.

2.2. The present application concerns classification of ATS. Applicant refers to paragraphs 4 to 8 of Annexure I, which describes the nature of and functionality of ATS, which is an equipment used for filtering and purifying the harmful gases emitted as a result of combustion of fuel in the engine into harmless gases. The Subject Goods answer to description of goods covered under tariff heading 8421 ("*Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases*"), falling under Section XVI of the First Schedule to the Customs Tariff as well as tariff heading 8708 (covering Parts and accessories of the motor vehicles of headings 8701 to 8705) under Section XVII of the First Schedule to the Customs Tariff. The following paragraphs reproduce the relevant extracts of the notification issued under GST Law, followed by the

interpretation of the Applicant of this material, so as to determine the classification of the Subject Goods.

2.3. Notification No. 1/2017 Central tax (Rate) dated 28 June 2017 (hereinafter referred to as '**Notification 1/2017**'), in Schedule I to VI specifies goods, which shall be levied to tax at the rate of 2.5%, 6%, 9%, 14%, 1.5% and 0.125% respectively. Explanation to Notification 1/2017 provides:

*"Explanation. – For the purposes of this notification, -*

*(i) .....*

*(ii) .....*

*(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."*

2.4. It is clear that the classification for GST rate is entirely based on the Customs tariff and in order to determine the rate of GST leviable on any goods including ATS, it is first imperative to determine the classification of the Subject Goods in terms of Customs Tariff Act, 1975 ('**Customs Tariff Act**').

2.5. The Customs Tariff of India is largely aligned with the tariff classification in Harmonised Commodity Description of Coding System ('**HSN**') provided by the World Customs Organization ('**WCO**'). This position is amply clear in the judgement in **Collector of Central Excise, Shillong vs. Wood Craft Products Limited** [1995 (77) E.L.T. 23 (S.C.)]. The Rules for the Interpretation of the First Schedule to the Customs Tariff Act ('**Rules of**

**Interpretation of Customs Tariff')** lay down the principles for classification of the goods. In terms of Rule 1 of the Rules of Interpretation of Customs Tariff, classification is required to be determined according to the terms of the headings and any relevant Section Notes and Chapter Notes. Rule 2 deals with classification of incomplete or un-assembled goods and goods having mixtures or combination of two or more materials, and Rule 3 provides for classification of goods when by application of Rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings. Further, the Section Notes and Chapter Notes of the Customs Tariff, being a part of the Customs Tariff, have binding force and would even have an overriding force over the respective headings<sup>1</sup>. Further, it is imperative to note that wherever a Chapter of Customs Tariff is aligned with the corresponding Chapter of the HSN, then the explanatory notes in the HSN elucidating the scope of that Chapter would have persuasive value in determination of scope of headings of corresponding Chapter of the Customs Tariff; as per the law declared by the Hon'ble Supreme Court in the following judgments:

**a. Camlin Limited vs. CCE [2008 (230) E.L.T. 193 (S.C.)]**

**b. Coen Bharat Limited vs. CCE [2007 (217) E.L.T. 165 (S.C.)]**

**c. CCE vs. Bakelite Hylam Limited [1997 (91) E.L.T. 13 (S.C.)]**

2.6. It emerges that in order to determine the correct classification of ATS, reference is to be made to Customs Tariff, Section Notes and Chapter Notes forming part of Customs Tariff, along with Rules of Interpretation of Customs Tariff, and the explanatory notes to the HSN. These have been reproduced and analysed in the ensuing paragraphs, along with relevant judicial precedents on issue.

2.7. The Applicant first submits that ATS being a purifying and filtering equipment Section XVI and Chapter heading 8421 are relevant. Section



XVI of the Customs Tariff covers 'Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles', and, Chapter heading 8421 covers 'Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases'

2.8. The relevant explanatory notes to the HSN for Chapter heading 8421 are reproduced below:

*"Part II – Filtering or purifying machinery and apparatus, for liquids and gases*  
*Much of the filtration or purification plant of this heading is purely static equipment with no moving parts. The heading covers filters and purifiers of all types (physical or mechanical, chemical, magnetic, electro-magnetic, electrostatic etc.). The heading covers not only large industrial plants but also filters for internal combustion engines and small domestic appliances. The heading does not, however, include filter funnels, milk strainers, vessels, tanks etc., simply equipped with metallic gauze or other straining material, nor general purpose vessels, tanks etc., even if intended for use as filters after insertion of a level of gravel, sand, charcoal etc.*

*In general, filtering machinery and plant of this heading is of two distinct types according to whether it is intended for liquids or gases.*

*(A) Filtering and Purifying machinery, etc. for liquids, including water softeners.....*

*(B) Filtering and Purifying machinery, etc. for gases*

*These gas filters or purifiers are used to separate solid or liquid particles from gases either to recover products of value (e.g. coal dust, metallic particles etc. recovered from furnace flue gases or to eliminate harmful materials (e.g. dust extraction, removal of tar etc., from gases or smoke fumes, removal of oil from steam engine vapours).*

*They include:*

*1. ....*

2...

3. ....

4. Other chemical filters or purifiers for air or other gases (including catalytic converters which change carbon monoxide in the exhaust gases of motor vehicles)."

2.9. The Subject Goods, i.e. filtering and purifying equipment are fitted to the exhaust system of the motor vehicles. The principal and solitary function of the Subject Goods is to filter and purify the various including harmful gases emitted during the combustion of fuel in a vehicle's engine. The ATS converts carbon monoxide ('CO') into carbon dioxide ('CO<sub>2</sub>'), nitrogen oxides ('NO<sub>x</sub>') into Nitrogen ('N<sub>2</sub>') Water (H<sub>2</sub>O), and carbons into CO<sub>2</sub>, and traps the residual carbon in the filter. In this regard, the common parlance nomenclature is therefore exhaust gas processing equipment. It is useful to record here that the ATS is designed for this purpose, i.e. for end-use and application in filtering and purifying of gases. These factual aspects of the ATS are explained in detail in paragraph 5 of the Annexure I and are certified by a chartered engineer in his capacity of technical expertise, refer certificate enclosed with this application.

2.10. In the present case, based especially on the description and functionality or application of the Subject Goods it can be said to be specifically covered under tariff heading 8421 i.e. *filtering and purifying machinery, etc. for gases*. Upon an application of Rule 3(a) of the Rules of Interpretation of Customs Tariff - that goods shall be classified under heading which provides the most specific description rather than under heading which provides general description - it can be said that the Subject Goods should not be classified under tariff heading 8708 (covering parts and accessories of the motor vehicles of headings 8701 to 8705). In support, the Applicant places reliance on the following judgements:

- a. **Speedway Rubber Company vs. Commissioner of Central Excise**  
[2002 (143) E.L.T. 8 (S.C.)]
- b. **Pioneer Industries vs. Commissioner of Central Excise and Service**  
**Tax** [2017 (6) G.S.T.L. 491 (Tri. -Ahmedabad)]
- c. **Aarti Drugs Limited vs. Commissioner of Central Excise** [2015 (324)  
E.L.T. 594 (Tri. - Mumbai)]

2.11. Section XVII of the Customs Tariff covers 'Vehicles, aircraft, vessels and associated transport equipment'. Chapter 87 of the Customs tariff (forming part of Section XVII) covers 'Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof' and Chapter heading 8708 of Customs Tariff covers 'Parts and accessories of the motor vehicles of headings 8701 to 8705'. The

Section Notes (2 and 3) are reproduced here:

*"2. The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:*

(a) .....

(b) .....

(c) .....

(d) .....

*(e) machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;*

(f) .....

(g) .....

(h) .....

(ij) .....

(k) .....; or

(l) .....

*3. References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answer to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory."*

The above Section Notes, especially Note 2 of Section XVII of the Customs Tariff, excludes certain parts and accessories from within its scope and thus being classified under Chapter 86 to 88. Section Note 2(e) particularly stipulates that **'parts' and 'parts and accessories' which are machines and apparatus of headings 8401 to 8479, even if are identifiable as goods of Section XVII, will be excluded from being classified under this Section.** Further, Section Note 3 of Section XVII of the Customs Tariff stipulates that in order to qualify as a 'part' or 'accessory' of goods of this section (XVII, and Chapters within this section), the article shall be suitable for use solely or principally with the goods of Chapter 86 to 88.

- 2.12. On conjoint reading of Section Notes 2 and 3 of Section XVII, it is evident that certain articles are excluded from being considered as parts of goods under Chapter 86 to 88. Articles which are not excluded by the virtue of Section Note 2, can qualify to be a 'part' or 'accessory' only if it is suitable for use solely or principally with the goods of Section XVII. It should be noticed that the construct of the Section Notes is such that in order to apply Section Note 3 to any goods, it is essential that the goods should not be excluded from Section Note 2 of Section XVII, and so only after it is ensured that a given part is not excluded by virtue of Section Note 2 that the tests as to usage 'solely' or 'principally' as provided for in Section Note 3 can be applied to a given case. This approach to classification has been explained in the advance ruling by

this Hon'ble Authority in re. **Parker Hannifin India Private Limited**,  
**Order No. KAR/AAAR/07/ 2019-20** dated 10 January 2020.

2.13. We turn to the HSN and reproduced here are the explanatory notes to HSN (Section XVII), which will elucidate the scope and ambit of Section XVII of the Customs Tariff:

*“(III) PARTS AND ACCESSORIES*

*It should be noted that Chapter 89 makes no provision for parts (other than hulls) or accessories of ships, boats or floating structures. Such parts and accessories, even if identifiable as being for ships, etc., are therefore classified in other Chapters in their respective headings. The other Chapters of this Section each provide for the classification of parts and accessories of the vehicles, aircraft or equipment concerned.*

*It should, however, be noted that these headings apply only to those parts or accessories which comply with all three of the following conditions:*

- (a) They must not be excluded by the terms of Note 2 to this Section [See paragraph (A) below] and*
- (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 [see paragraph (B) below] and*
- (c) They must not be specifically included elsewhere in the Nomenclature [see paragraph (C)].”*

2.14. Explanatory notes to Section XVII including paragraphs A and B (of the HSN), referred to at point (a) and (b) above are enclosed with this application.

2.15. A plain and literal reading of the explanatory notes in Section XVII of the HSN reveals that in order for any goods to be covered under Section XVII, the first condition is that such goods shall not be excluded by virtue of Note 2 of Section XVII **and** then the goods must be suitable for use solely or principally with articles of Chapters 86 to 88. As mentioned

previously that the Indian Customs Tariff is modelled on the HSN, and thus the explanatory notes offer definitive guidance and are of persuasive value that deserve to be followed in the matter of classification of goods – see judgements in **Camlin Limited vs. CCE** [2008 (230) E.L.T. 193 (S.C.)], **Coen Bharat Limited vs. CCE** [2007 (217) E.L.T. 165 (S.C.)] and **CCE vs. Bakelite Hylam Limited** [1997 (91) E.L.T. 13 (S.C.)]. In short, for the present facts and application, applying the rationale set out in the explanatory notes to the HSN, the Subject Goods do not deserve to be classified under Section XVII. It is also apposite to notice that Section Notes of the Indian Customs Tariff have a near-identical phraseology as the HSN, and as per Section Note 2(e) it specifically excludes machines and apparatus of headings 8401 to 8479, or parts thereof. In the present case, the Subject Goods being filtering and purifying equipment finds appropriate classification in Chapter heading 8421 i.e. filtering and purifying machinery, etc. for gases and hence the same merits exclusion from being classified as goods of Section XVII and instead classified under Section XVI.

- 2.16. In present facts, ATS is tailor-made to the specifications / design so as to be fitted to a given motor vehicle engine, and then deployed for emission purposes. Each type of motor vehicle engine has a unique shape and technical specifications and so the ATS is uniquely designed to achieve perfect fitting with the motor vehicle engine and moreover optimal functionality with minimal or nil side-effects or recoil. The Subject Goods are thus required to be manufactured according to the specifications/ design provided by the OEM, although from a purely functionality aspect a typical ATS could be remodeled, redesigned and re-engineered to be deployed elsewhere than the internal combustion engine of motor vehicle it was intended for. The function of the Subject Goods is



filtering and purify the harmful gases emitted during combustion of fuel in a motor vehicle's engine and this is certified by a chartered engineer's certificate enclosed with this application. Accordingly, an ATS as an apparatus may be used in any engine (for example generator engine) with suitable alterations and modifications. At this stage, it may be important to consider meaning of terms 'solely' and 'principally'. The dictionary meaning of these terms is reproduced here:

- 'Solely': *'to the exclusion of all else'*
- 'Principally': *'for the most part; chiefly; mainly'*

It therefore emerges that in order for a product to be covered in Section XVII the same must be capable of use only with articles of Chapters 86 to 88. However, as mentioned earlier ATS as an apparatus may be used in articles other than those covered in Chapter 86 to 88 (for example generator engine covered under Chapter 84). As a result, the Subject Goods do not meet the requirement of Note 3 of Section XVI, and cannot be classified under Section XVII, Chapter 87. Here, and in support of this conclusion it is important to recall the manner in which the explanatory notes to Section XVII are worded – in the cumulative manner – and be guided by it. Further, the third condition in explanatory notes to HSN is that 'goods should not be specifically included elsewhere in the nomenclature'. In present case, ATS are more specifically included in Chapter heading 8421 i.e. filtering and purifying machinery, etc. for gases – from a functional or user perspective – thus do not deserve to be classified under Chapter 87. In view of these analysis, it can be summarised that none of the conditions prescribed under the Explanatory Notes are fulfilled by ATS, hence the same cannot be covered under Section XVII and thereby under Chapter 87.

2.17. The Applicant refers to the judgement in **Intel Design Systems (India) Private Limited vs. CC and CE [2008 (223) E.L.T 135 (S.C.)]** which dealt with a similar issue. The Hon'ble Supreme Court declared the law that goods in question i.e. Contractors, switches, control box even if used solely or principally with armoured vehicles of Heading 8710, are specifically covered under sub-heading 8536.90, hence fall under category of excluded goods under the Section Notes to Section XVII. The relevant extract is reproduced as follows:

*"5. As per the Explanatory Notes to HSN the parts falling under Chapter Heading 8710 would be covered under the said Chapter, provided they fulfill both the conditions i.e. they must be identifiable as being suitable for use solely or principally for such vehicles and that they must not be excluded by the provisions of Notes to Section XVII. The identifiable parts under the said heading bodies of armoured vehicles and parts thereof, cover special road wheels for armoured cars, propulsion wheels for tanks, tracts etc. As per this requirement, the goods should not only be identifiable to be armoured vehicles, but it should so not have been excluded by Notes to Section XVII. The Chapter note 2(f) excludes electrical machinery and equipment falling under Chapter 85. Explanatory Notes to HSN relating to the parts and accessories excluded by Note 2 specify items with reference to specific Chapter Heading as per (7) (a), (k) which excludes photographs and other current collectors for electric traction vehicles, fuses, switches and other electric apparatus of Heading No. 85.35 or 85.36. The items, therefore, manufactured by the appellants are identifiable or are in the nature of goods falling under Chapter Heading 85.36. Since these falls under the category of excluded goods under Chapter Notes, even though they are used specifically solely or principally with the armoured vehicles of Chapter Heading 8710, they are classifiable under Chapter Heading 8536.90 only as held by the adjudicating authority."*

2.18. The Applicant refers to the decision in **CCE vs. Cummins India Limited [2003 (156) E.L.T 98 (Tri. – Mumbai)]** wherein, fuel filters were classified under Chapter heading 8421 and not under Chapter heading 8708 by application of Note 2(e) of Section XVII of the Customs Tariff. The relevant extract is reproduced for ease of reference:

*"3. We do not find it possible to accept the classification put forth by the department. Heading 84.09 is for parts suitable for use solely or principally with the engines of Heading 84.07 or Heading 84.08 (Spark-ignition internal combustion piston engines and diesel and semi designed engines). We shall consider each of the items. The supercharger is nothing more than a pump. It is fitted to internal combustion engines with the object of blowing air under pressure into the inlet manifold of the engine. The object of this is to enable greater power to be produced by the engine. The McGraw-Hill Dictionary of Scientific and Technical Terms defines supercharger to be "An air pump or blower in the intake system of an internal combustion engine used to increase the weight of air charge and consequent power output from a given engine size." It is, therefore, correctly classifiable as an air pump in Heading 84.14. The fuel injection system supplied by the respondent consists of the fuel pump including booster pump, high pressure pipes and injection assembly. There is not a separate heading in the tariff for fuel injection equipment; the component of this system will have to be classified separately on merits. **The items such as fuel pump etc. which are separately classifiable in other heading of this Chapter will be excluded from this Chapter by application of Note 2(e) to this Chapter. Thus fuel pumps would be classifiable in Heading 84.13, fuel filter in Heading 84.21.**"*

2.19. Similarly, in **Bosch Limited vs. CCE [2010 (250) E.L.T 273 (Tri. – Bangalore)]**, goods classifiable under Chapter 84 were excluded from being classified under Chapter heading 8708, irrespective of

their application for vehicular use. The relevant extract is reproduced here:

*"5.5 As regards the classification of the project, the Commissioner (Appeals) has stated in para 10 of the impugned order that **nozzle and nozzle holders being part of Injector, which is a part of internal combustion engine are squarely covered by Chapter Heading 84.09 of Schedule to Central Excise Tariff Act, 1985 irrespective of their application whether for vehicular use or non-vehicular use. In the present appeal, as the period is subsequent to the introduction of CETA, 1985, he has stated that there is no need for examination of the classification of the goods for the earlier period. This is acceptable. Moreover, the appellants have not agitated this issue...**"*

2.20. On the basis of the referred judgements in the context of the Customs and Central Excise law, the ratio of which is untainted, and deserves to be followed in construing the tariff line items in the GST law since it is borrowed from rather based on the Customs law, the indubitable conclusion is that the Subject Goods are appropriately classifiable under tariff heading 8421 of the Indian Customs Tariff and GST notifications. Noticeably, in each of the referred judgements the issue at hand was whether the goods in question were to be classified under a specific tariff heading or with reference to tariff heading falling within ambit of Section XVII, more particularly Chapter 87 (vehicles).

2.21. The Applicant, in support of its interpretation and view refers to the advance ruling by the Karnataka State Appellate Authority of Advance Ruling in re. **Parker Hannifin India Private Limited** [Order No. **KAR/AAAR/07/2019-20**], wherein it was concluded that notes to Section XVII specifically carve out an exclusion for goods covered under Chapter Heading 8401 to 8479 and "filters" would fall for classification under Chapter Heading 8421. The relevant extract is as follows

*"11. The Appellant has argued that Note 2(e) to Section XVII is generic in nature and primacy should be given to Section Note 3 to Section XVII which determines the classification based on sole and principal use. We have gone through Note 3 to Section XVII which states that, the references in Chapter 86 to 88 to 'parts' or 'accessories' which are not suitable for use solely or principally with the articles of those Chapters. It is the claim of the Appellant that the reference to 'Parts' in Chapter Heading 86.07 applies only to those parts which are suitable for use solely or principally with railway locomotives and since the subject Filters manufactured by them are solely and principally for the railways, the provisions of Note 3 to Section XVII would squarely apply. This argument is not acceptable.*

*12. On a conjoint reading of Section Notes 2 and 3 to Section XVII, what emerges that:*

*a) Section Note 2 to Section XVII excludes certain items mentioned at (a) to (l) from being covered under Section XVII as 'parts' or 'parts and accessories' even though they are identifiable as being for the goods under the Chapters of this Section. Note 2(e) excludes machines and apparatus of heading 8401 to 8479 from being considered as 'parts' or 'parts and accessories'.*

*b) Section Note 3 to Section XVII states that the references in Chapters 86 to 88 to 'parts' or 'accessories' applies only to those parts and accessories which are used solely and principally with the articles of those Chapters. In the case of Chapter Heading 86.07 –*

*"Parts of railway locomotives", the reference to 'parts will apply only to those parts which are used solely and principally with the railway locomotives.*

*It is evident from the above Section Notes that certain articles are excluded from being considered as parts of goods under the Chapters of this Section, by virtue of Note 2. Articles which are not excluded by virtue of Note 2, can qualify to be a 'part' or 'accessory' only if it is suitable for use solely or principally with the goods of this Section. In other words, in order to apply the principle of Note 3 to Section XVII while classifying a 'part', it is essential that said items should not be excluded from Section XVII by virtue Note 2. Only after it is ensured that the 'part' is not excluded by Note 2, can the 'sole and principal use' concept in Note 3 be applied. The Final test for classifying apart under Section XVII will no doubt be on the basis of the sole and principal use with the goods of the Chapters in the said Section. However, the contention of the Appellant that Note 2 contradicts*

*the specific test of 'sole and principal use' laid down by Note 3 and hence Note 3 is to be given primacy over Note 2 in not a correct interpretation. There is no contradiction between Section Notes 2 and 3 to Section XVII. The test laid down in Note 3 is to be applied only after it is ensured that the article is not excluded by virtue of Note 2. Section Notes 2 and 3 are to be read harmoniously in sequential order. Section Note 3 cannot be read in isolation or accorded primacy as contended by the Appellant."*

2.22. Similarly, in re. **Hyva India Private Limited [2019 (27) G.S.T.L. 85 (A.A.R.- GST)]**, this Hon'ble Authority held that the hydraulic kits are appropriately classifiable as 'other engines and motors' under Chapter Heading 8412 even if supplied to be fitted to tippers and dumpers classifiable under Chapter 87. The relevant extract of the advance ruling, is reproduced below:

*"From the submissions made by the applicant we find that, in the case of sale of Hydraulic Kits to OEMs, we agree with their submissions that their product falls under Chapter Heading 8412 of the Customs Tariff under the description "Other Engines and Motors" in view of the Explanatory Note to Heading 8412 and Note 4 to Section XVI which are mentioned below.....*

*A doubt may arise that since the 'hydraulic kit' being fitted to a motor vehicle could merit classification as part of motor vehicle. However, this doubt gets cleared by exclusions provided in the Explanatory notes to Section XVII and Heading 8708, 8714 and 8716 which relate to the classification of parts of different kinds of motor vehicles. The Explanatory Notes to Headings 8708, 8714 and 8716 are stated below.....*

*In the present case, the Hydraulic Kit is used on bodies/platform, detaching sides, tipper bodies falling under Chapter Heading No. 8709 as well as for other trailers for transport of goods such as agricultural, public works etc., trailer (whether or not tipper) falling under Heading No. 8716. Thus, it is clear that the product in question i.e. Hydraulic Kit is not satisfying the condition No. (b) Mentioned in above. In other words, Hydraulic Kit is not suitable for use solely or principally with the motor vehicles.*



Further, we are in agreement with the applicant's submission that the Hydraulic Kit is specifically excluded by Note 2(e) to Section 17 which provides that the expression "parts" and "parts and accessories" do not apply to machines or apparatus of Heading 8401 to 8479 or parts thereof, other than radiators or articles of Section 8481 or 8482 or provide constituting integral parts for engines or articles of Heading 8483, whether or not they are identifiable as goods as per the goods of this section. In the present case, the product in question 'hydraulic cylinders/hydraulic kits' is squarely/specifically covered under Heading No. 84.12 and hence the condition (a) mentioned above stands not satisfied in the present case.

As discussed above, it is clear that Hydraulic Kit is more specifically included in Heading No. 84.12 and is more specifically covered under said heading. Thus, the Hydraulic Kit does not satisfy the condition (c) mentioned above.

Therefore, we clearly find that all the 3 conditions mentioned in Heading No. 8708, 8714 and 8716 are not satisfied in the present case and hence, the product in question i.e. Hydraulic Kit will not be covered under Headings No. 8708, 8714 and 8716.

In view of the foregoing the hydraulic kits are appropriately classifiable under Heading 8412 by application of HSN Explanatory Notes to Headings 8412, 8708, 8714 and 8716 and Section Note 4 to Section XVI and Exclusion Note 2 to Section XVII."

### **Conclusions**

2.23. The Subject Goods are designed for and meant for filtering and purifying the harmful gases emitted as a result of combustion of fuel in the engine into harmless gases which conform with the emission regulation requirement and supplied accordingly.

2.24. In view of the above facts and provisions, Applicant submits that the Subject Goods are excluded from and so cannot be classified under Section XVII of the Customs Tariff (as is relevant for GST regime),

especially due to Note 2(e) read with Note 3 to Section XVII of the Customs Tariff.

2.25. The Applicant also submits that for any goods to be classified under Chapters 86 to 88 all three conditions stated as at paragraph 14 (a), (b) and (c) above must be satisfied, however since ATS does not meet these conditions, it cannot merit classification under tariff heading 8708.

2.26. Hence, the Applicant submits that ATS are appropriately classifiable under tariff heading 8421 of the Indian Customs Tariff and consequently serial no. 322 of Schedule III of Notification No. 1/2017- Central Tax (Rate).

2.27. In view of the described interpretation and analysis, ATS is supplied to OEM's in automobile industry and used in / fitted to a motor vehicle engine it being a filtering and purifying machinery (of gases), it falls for classification under tariff heading 8421, and so merits GST at cumulative rate of 18% GST, in terms of Schedule III of Notification No. 01/2017- Central Tax (Rate).

**Additional Submission dated 15.04.2025**

2.28 The Applicant-Company is *inter alia* engaged in manufacture and supply of exhaust **after-treatment system** ("ATS"), also known as Exhaust Gas Processor ("EGP") for motor vehicles/ automobiles having medium duty, heavy duty and high horsepower engines. These activities are undertaken as a part of the Cummins Emission Solutions division.

2.29 ATS is an **equipment used for filtering and purifying harmful gases** emitted as a result of combustion of fuel in the engine into harmless gases which conform with the emission regulation requirement. ATS converts carbon monoxide (CO) into carbon dioxide (CO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>) into Nitrogen (N<sub>2</sub>) and Water (H<sub>2</sub>O), and carbons into CO<sub>2</sub>, and traps the residual carbon in the filter. This process and therefore equipment is

now mandatory for vehicles manufactured in India, in terms of the Bharat Stage ("BS") VI standard concerning emission norms.

- 2.30 ATS, typically comprises- diesel oxidised catalyst ('DOC'), diesel particulate filter ('DFP'), dosing unit, mixer etc. ATS draws diesel exhaust fluid, ammonia from the tank and via the supply unit delivers it to the dosing unit to complete the conversion process. A chartered engineer's certificate specifying that ATS functions as a filtering or purifying equipment and apparatus for gases, was submitted along with the application as Exhibit F thereto.

*ATS Variants - Clarification on various customer requirements*

- 2.31 The Applicant supplies ATS in different variants which have been designed keeping in mind various requirements of customers.
- 2.32 Here it is useful to note that courts have consistently held and the CBIC Instruction No. 01/2022-Customs clarifies that classification of goods must be based on the product's intrinsic character and not its end-use or customer-specific application. Hence, end-use being designed for a specific vehicle make or model (which in fact, is not), will not have a bearing on the classification of the product.

**II The issue**

- 2.33 Since ATS is filtering or purifying equipment for gases, it falls for classification under tariff heading 8421 (Chapter heading 8421 covers 'Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or Effective from January 2022, ATS falls for gases') of the Customs Tariff. classification under tariff item 84213200, which has the description as "catalytic converters or particulate filters, whether or not combined, for purifying or filtering exhaust gases from intern combustion engines". On the other hand, since ATS finds application in the exhaust system of the motor vehicles, it may be

classified under the customs tariff heading 8708 of the Customs Tariff, which covers 'parts of motor vehicles of heading 8701 to 8705'. Previously, the Company classified ATS under tariff heading 8708 however, owing to these competing entries and resultant ambiguity as to the appropriate classification of ATS, the application was filed with the following questions:

- (i) Whether ATS (exhaust after-treatment system) also known as EGP (exhaust gas processor), which is a purifying and filtering apparatus / equipment is classifiable under tariff heading 84213990 of the Customs Tariff (as is relevant for GST regime), and consequently for GST Law under Serial No. 322 of Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017?
- (ii) If ATS cannot be classified under tariff heading 84213990 whether it merits classification under tariff heading 8708 of the Indian Customs Tariff (as applicable to GST Law)?

### **III. Classification of ATS under the Customs Tariff and GST rate notifications**

2.34 Classification for GST is based on the Customs Tariff especially, in view of Explanation (iii) and (iv) appended to Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017 therefore, in order to determine the rate of GST leviable on any goods including ATS, it is imperative to first determine the classification of the goods in terms of Customs Tariff Act, 1975 ('Customs Tariff Act').

2.35 In order to **determine the correct classification of ATS**, reference is to be made to Customs Tariff, Section Notes and Chapter Notes forming part of Customs Tariff, along with Rules of Interpretation of Customs Tariff, and the explanatory notes to the HSN.

ATS is classifiable under chapter heading 8421

2.36 ATS being a purifying and filtering equipment, **Section XVI** and Chapter heading 8421 of **the** Indian Customs Tariff **are** relevant. **Section XVI** of the Customs Tariff covers '*Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles*', and Chapter heading 8421 covers Centrifuges, including centrifugal dryers: filtering or purifying machinery and apparatus, for liquids or gases'.

2.37 ATS is fitted to the exhaust system of the motor **vehicles** and, its solitary function is to filter and purify harmful gases emitted during the combustion of fuel in a vehicle's engine by converting it into harmless gases, **a** **is** required by the BS VI norms. It is for this reason that the common parlance nomenclature **of ATS** is 'exhaust gas processing equipment'. Sample invoices of ATS, as attached to this synopsis as **Exhibit 1**. Based on this description, functionality and application of ATS, it emerges **that** it is specifically covered under tariff heading 8421 i.e. filtering and purifying machinery, *etc.* for **gases**.

2.38. In support of this submission that **the** ATS or EGP falls within tariff heading 8421, the Applicant **attaches as Exhibit 2** to this synopsis, the HSN Explanatory Notes, which it is **well settled** **are** to be considered, **followed and applied in** matters of classification under the Customs Tariff of India.

Amendments in Custom Tariff effective from January 01, 2022

2.39. **Several** changes **were** brought into Customs Tariff, in order to align the same with **new** (seventh) edition **of the** Harmonized System Nomenclature (i.e. HS 2022). **As** a part of these amendments, a **number of specific entries were** incorporated in the tariff to cover goods which **were otherwise being classified** under residual entries.

2.40. Relevantly, amendments have been made in chapter heading 8421, wherein a specific tariff item 84213200 has been incorporated to cover '*Catalytic\_converters\_or particulate filters, whether or not combined, for purifying or filtering exhaust gases from internal combustion engines.* Relevant extracts of the Customs Tariff before and after the aforesaid changes are enclosed as Exhibit 3. ATS being a filter for purifying gases (resulting) from internal combustion engines squarely answers to the description in customs tariff item 84213200.

2.41 The Applicant refers to the CBIC's guidance note which provides correlation between the Tariffs at the eight-digit level documenting the manner in which the commodities covered by Tariff of 2021 have been accommodated in the Tariff of 2022. The relevant extract of this note is enclosed as Exhibit 4. On perusal of this guidance note, it can be safely said that goods previously classified under 84213990 are now specifically covered under 84213200. This amendment to the tariff reveals the legislative intent to classify such apparatus under 8421, thereby validating the Applicant's position that ATS or EGP falls for classification under tariff item 84213200.

ATS or EGP cannot be classified under tariff heading 8708, based on the three- pronged test

2.42 It is a well settled legal position that Section Notes and Chapter Notes are an integral part of the law and are binding<sup>2</sup>, thus in matters of classification these are to be applied with full vigour. It is also useful to notice that Rule 1 of the "General rules for the interpretation of the Schedule" stipulates that "*for legal purposes classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and,...*"



- 2.43 Section XVII of the Customs Tariff covers 'Vehicles, *aircraft, vessels and associated transport equipment*'. Chapter 87 of the Customs Tariff covers motor vehicles and parts thereof and Heading 8708 covers "parts and accessories of motor vehicles of headings 8701 to 8705". For the present case, Notes 2 and 3 to Section XVII of the Customs Tariff are applicable and prescribe a three-pronged test for a commodity to be classified under the chapters (including 87) of Section XVII of the Customs Tariff.
- 2.44 In terms of Note 2 to Section XVII, the expressions "parts" and "parts and accessories" **do not apply** to machines and apparatus of headings 8401 to 8479, or parts thereof. Further, in terms of Note 3 to Section XVII references in Chapters 86 to 88 to "parts" or "accessories" **do not apply** to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters.
- 2.45 On conjoint reading of Section Notes 2 and 3 above, certain articles are excluded from being considered as parts of goods under Chapter 86 to 88 (Section XVII). Articles which are not excluded due to Section Note 2, can qualify to be a 'part' or 'accessory' only if it is suitable for use solely or principally with the goods of Section XVII. It should be noticed that the construct of the Section Notes is such that in order to apply Section Note 3 to any goods, it is essential that the goods should not be excluded from Section Note 2 of Section XVII, and so only after it is ensured that a given part is not excluded by virtue of Section Note 2 that the tests as to usage 'solely' or 'principally' as provided for in Section Note 3 can be applied. In para. 5 of the Apex Court's decision in *Intel Design Systems (India) Pvt. Ltd. vs. CC&CE*. [2008 (223) E.L.T. 135 (S.C.)], in the context of classification of electrical machinery and equipment for use in tanks and other armoured and motorised fighting vehicles it was held "*As per the Explanatory Notes to HSN the parts falling under Chapter Heading*

*8710 would be covered under the said chapter, provided they fulfill both the conditions i.e. they must be identifiable as being suitable for use solely or principally for such vehicles and that they must not be excluded by the provisions of Notes to Section XVII."* This approach to classification has been explained and **endorsed in the GST advance ruling in Parker Hannifin India Private Limited, Order No. KAR/AAAR/07/2019-20.**

2.46 In present case, ATS is excluded from Section XVII by virtue of Note 2(e)3, Whereas, in the context of Section Note 3 and the "use solely or principally" test it is apposite to appreciate **that ATS as an equipment may functionally be used in any engine, for example a generator engine, with suitable alterations and modifications; accordingly, it cannot be said that ATS is a part suitable solely and principally for use in an automobile. Therefore, ATS is cast out of Section XVII owing to Section Note 2(e) and, it does not meet the requirement of Note 3 of Section XVII as well, hence it is not capable of classification under Section XVII and any of the chapters thereunder.**

2.47 Support to the submissions that **classification of ATS cannot be made under Chapter heading 8708, is available by reference to the pertinent judgments in the case of:**

- Intel Design Systems (India) Private Limited vs. CC and CE [2008 (223) E.L.T 135 (S.C.)]
- CCE vs. Cummins India Limited [2003 (156) E.L.T 98 (Tri. - Mumbai)]

2.48 In ascertaining **the classification of ATS or EGP, the conclusion and ratio of the Supreme Court's decision in CCE Delhi vs. Uni Products Ltd. [2020 (372) E.L.T. 465 (S.C.)]** is wholly germane to the matter at hand. In para. 26, it has been held that *"We accept this finding of the Tribunal. Once the subject goods are found to come within the ambit of that sub-heading, for the sole reason that they are exclusively made for cars and not for "home use" (in*

*broad terms), those goods cannot be transplanted to the residual entry against the Heading 8708.*" In the present case, since the subject goods fall within the ambit of chapter heading **8421**, assuming without admitting that the **ATS** was designed **solely for use in motor vehicles**, it cannot be brought out of tariff heading 8421 and classified under tariff heading 8708; **it is submitted classification of ATS or EGP under tariff heading 8708, will be in the teeth of the binding judgement in case of CCE Delhi vs. Uni Products Ltd. [2020 (372) E.L.T. 465 (S.C.)].**

2.49 It is apposite that the HSN Explanatory Notes, which **are to be followed** in matters of classification, in **respect of Section XVII (in part III concerning "Parts and accessories") provides the three-pronged test to be satisfied** for any **article** to be classified under **Section XVII** and chapter **87**. The third condition (clause c) in the Explanatory Notes to HSN is that 'goods should not be **specifically** included elsewhere in the nomenclature'. Here, the judgment of the Supreme Court in **CCE Delhi vs. Uni Products Ltd. [2020 (372) E.L.T. 465 (S.C.)]** is instructive, since it recognised and endorsed the three-layer test - refer para. 8 of the enclosed copy, marked as **Exhibit 5**. In present case, **ATS** are more **specifically included in Chapter heading 8421 (in terms of Rule 3(a) of the General Rules of the interpretation of this Schedule) i.e., filtering and purifying machinery, etc. for gases, thus cannot be brought within the folds of Section XVII or Chapters thereunder upon application of this third test of the three-layer test.**

Instruction No. 01/2022- Customs dated January 5, 2022 and its impact of classification

2.50 Central **Board of Indirect Taxes and Customs ("CBIC")** issued the Instruction to address **the difficulty in assessment of classification of automobile parts and components. This Instruction while noting the**

judgement in case of **Westinghouse Saxby Farmer Ltd. vs. Commissioner of Central Excise, Kolkata** [2021 (376) E.L.T. 14 (S.C.)] observed that:

- a. Classification of parts of goods of **Section XVII** of the Tariff Act is a complex issue.
- b. The **Section Notes** have been aptly applied in several past rulings of Supreme Court (*viz. Intel Design Systems (India) Pvt. Ltd. vs. CCE 2008 (223) E.L.T. 135 (S.C.), CCE Delhi vs. Uni Products Ltd.[2020 (372) E.L.T. 465 (S.C.)*). The judgement in **Westinghouse** is therefore at variance with the other judgements of the Supreme Court in classifying parts of goods under **Section XVII**.
- c. The **Westinghouse** judgement was given in context of relays used in railway signaling equipment and, does not have a wider applicability to any other case or issue of similar nature.
- d. The judgement pertains to a matter under Excise Tariff Act in the year 1994 and during the said time, the Excise Tariff and Customs Tariff were not aligned.

2.51 The Instruction **therefore** advises that classification of parts of goods of **Section XVII** should be decided taking into consideration the **relevant** facts of the case, all decisions on the subject, **analysis** of **Section Notes**, **Chapter Notes** and the Explanatory Notes to Harmonized **System of Nomenclature**. At paragraph 10 of the Instructions, it has been particularly noted that classification of parts must be undertaken bearing in mind "*...all relevant aspects including the HS Explanatory Notes, the relevant section and chapter notes and the various decisions of the Hon'ble Supreme Court,...*".

2.52 In the light of **above** Instructions, the ruling in case of **Westinghouse Saxby Farmer Limited** has limited applicability, and cannot be applied

universally for determining classification of goods **which** find end use in **the** automobiles. Hence, it **is** stoutly submitted **that** this ruling should not **be** applied to **determine** classification of ATS. **Rather**, the Instructions and all other submissions of **the** Applicant should be **applied** to classify ATS or EGP under tariff hearing 8421. It is **well** settled proposition that Circulars/ Instructions issued by the CBIC **are** binding on **the** tax authorities and **so**, must be scrupulously followed and applied.

General rules for the interpretation of the First Schedule to the Customs Tariff

2.53 There is another rationale as to why ATS or EGP cannot be classified under tariff heading 8708 rather, it must necessarily be classified under customs tariff item 84213200. Upon application of Rule 3(a) of the Rules of Interpretation of Customs Tariff- that goods shall be classified under heading which provides the most specific description rather than under heading which provides general description - it can be said that ATS should be classified under tariff heading 8421. In this behalf, judgments" supporting this position that the specific description must always be preferred over the general ones, reinforce the submission of the Applicant that ATS or EGP deserves to be classified under Customs Tariff Item 84213200, and none other.

2.54 **In the light of the above points, it is summarized that the three-pronged test prescribed under Section Notes and HSN explanatory is not fulfilled by ATS, hence the same cannot be covered under Section XVII and thereby under Chapter 87.**

IV Specific rebuttals to the Assistant Commissioner's observations/comments.

2.55 The Applicant refers to the Assistant Commissioner's Comments from the letter dated June 21, 2022, enclosed as Exhibit 6, wherein the Assistant

Commissioner has laid out his rationale and justification on why the subject goods should be classified under Chapter heading 8708. Specific submissions/ rebuttals to these comments are provided below:

Comments of the Assistant Commissioner	Applicant's Submissions and Rebuttal
<p>Reliance on ruling in case of G.S. Auto International Ltd.</p> <p>The comments refer to this ruling to state that goods suitable solely or primarily for use with vehicles under headings 8701 to 8705 would fall under heading 8708</p>	<ul style="list-style-type: none"> <li>- Firstly, the decision in G.S. Auto, pre- dates the decisions in Intel Design Systems and Uni Products, both of which are the later judgements and should be followed.</li> <li>- The ruling in G.S. Auto concerned classification of metal parts like bolts, nuts, pins, studs, etc.- all falling under Chapter 73 (parts of general use), not filtering or purifying equipment of Chapter 84.</li> <li>- While the Court mentioned Section Note 2 and Note 3 in its discussion, finally, the conclusion was arrived solely relying on the test under Section XVII Note 3, i.e., suitability for sole or principal use in vehicles.</li> <li>- In the present case, the product in question (ATS) is a purifying apparatus covered under heading 8421, which is explicitly excluded from Section XVII by Note 2(e).</li> <li>- CBIC's Instruction expressly acknowledges the complexity in classifying parts of vehicles and clarifies that reliance must be placed on Section Notes, Chapter Notes, HSN Explanatory Notes, and judicial precedents such as Intel Design Systems and Uni Products. It notes that some earlier rulings (such as Westinghouse Saxby) deviated from this structured approach and should not be treated as broad precedents. These Instructions are binding.</li> </ul>

	<ul style="list-style-type: none"> <li>- Therefore, classification must begin with the exclusions under Note 2 and cannot be decided solely by end-use as done in G.S. Auto, which dealt with a different chapter context altogether.</li> <li>- In summary, the comments are misdirected in relying upon the ratio of the G.S. Auto case, which is inapplicable to the present case.</li> </ul>
Reliance on A Raymind Fasteners India Pvt. Ltd. (AAR Appellate) Metal nuts and spring nuts were classified under heading 8708 due to their use in vehicles	- The appellate authority (MAAAR) relied on judgment in case of G.S. Auto to reach its conclusions. Therefore, this advance ruling is inapplicable and not relevant to the present case for the reasons outlined above (re. G.S. Auto), which are not being repeated here for sake of brevity. Rather, the Authority for Advance Ruling, it is urged, should follow the advance ruling in case of Hyva India Private Limited [2019 (27) G.S.T.L. 85 (A.A.R. - GST)]
Reliance Intel on Design Systems (India) Pvt. Ltd. (SC, 2008) This ruling confirms the two-fold test: goods must be (1) suitable solely/principally for use in motor vehicles, and (2) not excluded by Section XVII Note 2.	<ul style="list-style-type: none"> <li>- This judgment supports the Applicant's position and not that of the GST Department.</li> <li>- The Court held that even if goods are suitable for exclusive use in vehicles, they cannot be classified under Chapter 87 if excluded by Note 2. The items in Intel (electrical switches, control boxes) fell under Chapter 85 and were thus excluded by Note 2(f) to Section XVII.</li> <li>- In the present case, ATS falls under Chapter 84 (heading 8421) and is therefore excluded from Section XVII due to operation of Note 2(e). The omission of this critical aspect in the comments, undermines the submission of the GST department.</li> </ul>
ATS is fitted to the exhaust system of motor vehicles and is required under BS VI hence norms, and	- Use in motor vehicles alone does not determine classification and overpower other principles and tests concerning classification. The comments view the subject of

<p>should be considered part of motor vehicles.</p>	<p>classification with an over-simplistic approach, which must be desisted from.</p> <ul style="list-style-type: none"> <li>- CBIC Instructions clearly states that classification of vehicle parts is a complex legal exercise, not governed by end-use alone.</li> <li>- The ATS is a purifying apparatus, with its primary function being filtration, not vehicle propulsion or control to merit classification under tariff hearing 8708. At any rate classification under tariff hearing 8708 will be in the teeth of the Apex Court's judgements in Intel Design Systems and Uni Products.</li> <li>- As a machine/apparatus covered under heading 8421, it is legally excluded from being considered a part under Chapter 87.</li> <li>- This legal position has been upheld in other rulings like Parker Hannifin India (KAR/AAAR/07/2019-20), where gas filters-even if vehicle-specific-were held to be classifiable under 8421, and excluded from tariff heading 8708.</li> <li>- A specific tariff item 84213200 has been incorporated in the Customs Tariff with effect from 1 January 2022, to cover 'Catalytic converters or particulate filters, whether or not combined, for purifying or filtering exhaust gases from internal combustion engines'. The classification of ATS or EGP must be under this specific tariff entry. ATS being a filter for purifying gases (resulting) from internal combustion engines are squarely covered under tariff item 84213200. It is further submitted that this amendment in the Customs Tariff endorses the fact that ATS is classifiable under chapter heading 8421.</li> </ul>
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#### VI. Reference to Customs Advance Ruling in Denso Haryana Pvt. Ltd.



2.56 In addition to above, the Applicant draws the Hon'ble Authority's attention to the recent customs advance ruling in the case of Denso Haryana Pvt. Ltd. [2024 (389) E.L.T. 517 (A.A.R. - Cus. - Del.)], which is persuasive in the present context, since it concerns classification of certain parts for use in automobiles/motor vehicles and was rendered in the context of Customs Tariff.

2.57 In this ruling, the Customs Authority for Advance Rulings examined the classification of a Telematics Control Unit (TCU)—an electronic apparatus installed in automobiles-by applying a structured interpretive framework rooted in the relevant statutory provisions and judicial guidance. Crucially, the CAAR in that case examined the impact of the Supreme Court ruling in Westinghouse Saxby Farmer Ltd. as well as CBIC's Instruction, both of which discuss classification principles for parts and accessories under Section XVII of the Customs Tariff. Further, it applied the three- pronged test derived from the Notes to Section XVII read with HSN explanatory notes. The Customs Authority for Advance Ruling ("CAAR") held that since the TCU was an electrical apparatus falling under Chapter 85, it was excluded under Note 2(f) to Section XVII, and therefore could not be considered a part of a motor vehicle under Heading 8708. Instead, *it* was classified under heading 8517, being more specifically covered there.

2.58 This customs advance ruling reaffirms that:

- The exclusions under Section Note 2 are primary and determinative
- End-use or suitability for use (Note 3) is to be examined only after exclusion under Note 2 is ruled out;
- A more specific classification elsewhere in the Tariff overrides residual or functional claims under Chapter 87.

2.59 Applicant submits that upon considering these tests and indeed the reasoning adopted in this customs advance ruling, ATS or EGP which is an equipment

or apparatus for filtering and purifying exhaust gases falls for classification under heading 8421, more specifically tariff item 84213200 and upon application of Section Notes 2(e) and 3, cannot be classified under tariff heading 8708, as is proposed in the comments by the GST Department; such conclusion will run counter to the binding judgments of the Supreme Court of India in CCE Delhi vs. Uni Products Ltd.[2020 (372) E.L.T. 465 (S.C.)] and Intel Design Systems (India) Pvt. Ltd. vs. CC&CE. [2008 (223) E.L.T. 135 (S.C.)].

#### VI. Conclusion

2.60 Conclusion: In view of this above, read together with the application and submissions (written and oral) it is the Applicant's understanding that ATS is appropriately classifiable under tariff heading 8421 of the Indian Customs Tariff and consequently serial no. 322 of Schedule III of Notification No. 1/2017-Central Tax (Rate). Accordingly, ATS merits GST rate of 18%.

2.61 In the context of the GST rate notifications, the following advance rulings are persuasive and endorse the classification of ATS or EGP under tariff item 84213200:

- Parker Hannifin India Private Limited [Order No. KAR/AAAR/07/ 2019-20]
- Hyva India Private Limited [2019 (27) G.S.T.L. 85 (A.A.R. - GST)]

If there are any documents or clarifications required to pronounce the advance ruling, we will readily provide these and promptly.

#### 03. CONTENTION – AS PER THE CONCERNED OFFICER:

3.1 Cummins Technologies India Private Limited (hereinafter referred to as 'the Applicant') is engaged in manufacture and sale of products and services relating to turbo engines technologies, emission solutions, fuel systems etc. The applicant's business encompasses eight divisions viz. Cummins Turbo Technologies, Cummins Emission Solutions (CES),

Cummins Business Services, Cummins Fuel Systems India, Cummins Technical Centre India, Phaltan Engine Plant, Global Analytics Centre and Supply Chain Operations [SCO]. The CES division is engaged inter alia in manufacture and supply of exhaust after-treatment system [ATS) and other components for motor vehicle/automobile having medium duty, heavy duty and high horsepower engines.

3.2 The applicant seeks an Advance Ruling on Whether ATS [exhaust after-treatment system) also known as EGP (exhaust gas Processor], is classifiable under tariff heading 84213990 of the Customs Tariff (as is relevant for GST regime], and consequently for GST Law under Serial No. 322 of Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28" June 2017. Also, if ATS cannot be classified under tariff heading 84213990 whether it merits classification under tariff heading 8708 of the Indian Customs Tariff (as applicable to GST Law).

3.3 The matter was examined in light of various facts & judgments by the higher authorities in this regard. The departments comment/stand in this regard is as follows: -

3.3.1 We all know that motor vehicles are nothing but an amalgam of lakhs of parts, spares, components & accessories that are aesthetically engineered & interconnected in a manner to function in sync with each other. Now, it is very much possible that the various parts so assembled can either be the parts of general use or the parts of specific use but in all likelihood, the parts would always be so designed that It fits the use for a particular type, class, model & variant of the motor vehicle.

3.3.2 Now, in order to arrive at the appropriate classification of these items used in the motor vehicle, it is important to refer to the tariff classification as issued by the CBIC read with its Schedules and as

guided by the Interpretative rules, Section Notes, Chapter Notes as supported by the explanatory notes to the HSN as issued by the World Customs Council, Brussels.

3.3.3 The basic principle provided in rule 1 is that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes.

Now, the heading 8708 provides for "PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705", On the plain & isolated reading of heading 8708 alone, one might conclude that all parts of motor vehicles merit classification under heading 8708. However, as stated above, to arrive at appropriate classification, it is of paramount importance to decipher the various section notes, chapter notes along with interpretative rules.

3.3.4 To elaborate further, Chapter 87 is covered by Section XVII and as per note 2(b) to section XVII, the "Parts of general use" [as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39)) are to be excluded from section XVII. Further, note 3 of section XVII provides that parts of chapter 86 to 88 do not merit classification under these chapters, if the said parts are not suitable for use solely or principally with the articles of those Chapters.

Therefore, the exclusions carved out in Section XVII are the deeming fictions and may be looked at as an exclusive escape routes from the clutches of coverage under chapter 87. Thus, the parts of motor vehicles are to be classified under heading 8708, if they are not excluded as per section note 2(b) and if the parts are specifically used in the motor vehicle.

3.3.5 The guiding yardstick can be derived from various judicial precedents on the classification issues.

The judgement rendered by the Hon'ble Apex court of India in the case of GS Auto International Ltd Vs Collector of C. Ex., Chandigarh (2003 (152) ELT (3) SC), the Hon'ble Supreme Court of India has referred both the above notes. The Apex court concluded that for classification under CTH 8708, the test to be applied is whether the goods are suitable for use solely or primarily with articles of CTH 8701 to 8705. If the answer is in the affirmative, the goods will be classifiable under CTH 8708, but if the answer is in the negative, they would have to be classified under respective CTHs.

Further, In the recent Advance ruling rendered in the case of M/s. A Raymond Fasteners India Pvt Ltd 2021 (1) TMI 895, Appellate authority relying heavily on the decision of G.S. Auto (supra) held that Metal Nuts with metrical threading, and Metal Spring Nuts, will be considered as parts of motor vehicles and accordingly will merit classification under the Tariff Item 8708 9900 and not under 7318.

In case of Intel Design Systems (India) Pvt. Ltd. vs Commr. Of Cus. & C. Ex. 2008-TIOL-18-SC-CX, the Hon'ble Supreme Court of India held that parts falling under CTH 87 would only be covered under CTH 87 provided they fulfil both the conditions (1) they must be identifiable as being suitable for use solely or principally for vehicles falling under Chapter 87 and (2) they must not be excluded by the provisions of Section Note XVII.

3.4. In the present case, the ATS is an equipment used for filtering and purifying the harmful gases emitted as a result of combustion of fuel in the engine of the motor vehicle into harmless gases which conform with the emission regulation of Bharat Stage Emission Standards in India. The ATS

is actually the assembly comprising of various components viz., Diesel Oxidised Catalyst, Diesel Particulate Filter, Mixer, Dozing Unit, Sensors, Ammonia Slip Catalyst etc. This ATS/EGP is supplied by the applicant to various Original Equipment manufacturers in Automobiles Industry and then this ATS/EGP is integrated into and fitted to the exhaust system of the motor vehicles which fall under the classification of Chapter 87 of the Customs Tariff Act, 1975.

- 3.5. As stated by the applicant in their application (Annexure I para 8] itself that ATS has now become an integral part of all new Motor Vehicles manufactured after 01.04.2020, owing to BSVI emission norms within which the motor vehicles are required to be fitted and manufacturers obliged to comply with. Hence, this fulfils the conditions that ATS/EGP are part & parcel to the motor vehicle and are identifiable as being used solely for the motor vehicle falling under Chapter 87.

#### **04. HEARING**

Preliminary hearing in the matter was held on 22.10.2021. Mr. Ranjeet Mahtani, Advocate, appeared and requested for admission of the application. Jurisdictional Officer Mr. P. P. Karvande, Superintendent, Div-V, Khadakwasala, Commissionerate, Pune-II also appeared.

The application was admitted and called for final e-hearing on 03.04.2025. Mr. Ranjeet Mahtani, Advocate, Authorized Representative, appeared made oral and written submissions. The Jurisdictional officer is absent. Case is heard.

#### **05. OBSERVATIONS AND FINDINGS:**

- 5.1. We have gone through the application and the submissions made by the applicant. We have also gone through the submissions made by the applicant vide letter dated 15.4.2025 and the submissions made by them at the time of the personal hearing. We have also gone through the submissions made by the jurisdictional officer vide letter dated 21.6.2022.

We find that in the instant case, the applicant is manufacturing and supplying exhaust after treatment system and other components for motor vehicles/automobiles having medium duty, heavy duty and high horsepower engines. Fitting an exhaust After Treatment System (ATS) is mandatory as per Bharat Stage VI standard for emission norms as prescribed by Ministry of Road Transport and Highways. It is seen that the applicant supplies the following commodities to various original equipment manufacturers in the automobile industry for use in and during manufacture of motor vehicles.

- a) An assembly of ATS, also known as Exhaust Gas Processor (EGP) which are the subject goods in this application.
- b) other allied components required for operationalizing the functioning of the ATS viz. DEF Lines, tank with sensors and the supply unit.

As per the applicant, ATS is an equipment used for filtering and purifying the harmful gases emitted as a result of combustion of fuel in the engine into harmless gases which conform with the emission regulation requirement. The ATS converts carbon monoxide (CO) into carbon dioxide (CO<sub>2</sub>), nitrogen Oxides (NO<sub>x</sub>) into Nitrogen (N<sub>2</sub>), Water (H<sub>2</sub>O) and carbons into CO<sub>2</sub> and traps the residual carbon in the filter. The ATS is an assembly comprising of the following components:-

- i. Diesel Oxidized Catalyst ('DOC') - DOC reduces the particulate matter, carbon monoxide and hydrocarbons through the process of oxidation.
- ii. Diesel Particulate Filter ('DPF') - DPF collects particulate matter (Soot and Ash) from engine, Soot can be combustible by chemical and thermal means and that of Ash is non-combustible.
- iii. Selective Catalytic Reduction Catalyst ('SCR Catalyst') - SCR catalyst converts nitrogen oxide into nitrogen, water, tiny amounts of CO<sub>2</sub> through chemical reactions

- iv. Ammonia Slip Catalyst ('ASC') – ASC catalyst converts Non-utilized NH<sub>3</sub>/Urea from SCR catalyst
- v. Mixer - The primary function of the mixer is to mix Urea with the exhaust gases thoroughly in the specified quantity by creating turbulence.
- vi. Dozing unit – Dozing unit is used to inject the Diesel Exhaust Fluid ('reagents') in the pre-defined quantity and at a pre-defined time according to the temperature in the EGP as instructed by the Electronic Control Unit ('ECU')
- vii. Sensors – Various sensors are used to monitor the temperature/pressure of gases in the ATS/ EGP. Sensors send appropriate signals to the ECU to determine the quantity of reagents to be pumped in the dozing unit

The applicant is seeking classification of the said ATS under Tariff Heading No.8421 of the GST Tariff and has vehemently argued that the said product would not be classified under 8708 as parts and accessories of motor vehicles of headings 8701 to 8705.

- 5.2. We find that the applicant in Para 16 of their application have mentioned that in the instant case, the goods supplied i.e., ATS is tailor-made to the specifications / design provided by the automobile company or the OEM so as to be fitted to a given motor vehicle engine, and then deployed for emission purposes. Each type of motor vehicle engine has a unique shape and technical specifications and so the ATS is uniquely designed to achieve perfect fitting with the motor vehicle engine for **optimal functionality with minimal or nil side-effects or recoil**. (emphasis supplied). The Subject Goods are thus required to be manufactured according to the specifications/ design provided by the OEM, although from a purely functionality aspect a typical ATS could be remodeled, redesigned and re-engineered to be deployed elsewhere than the internal combustion engine



of motor vehicle it was intended for. At this juncture, it would be imperative to mention that this order is being given on the facts of the case before this authority and on the classification of the goods for which the applicant has approached this authority.

5.3. We find that, an After Treatment System is an apparatus which is used for filtering or purifying gases. The Explanatory Notes to the HSN for Chapter 8421 states that these gas filters or purifiers are used to separate solid or liquid particles from gases either to recover product of value (eg. Coal dust, metallic particles, etc., recovered from furnace flue gases or to eliminate harmful materials (eg. Dust extraction, removal of tar etc., from gases or smoke fumes, removal of oil from steam engine vapours) and they include other chemical filters or purifiers for air or other gases (including catalytic converters which change carbon monoxide in the exhaust gases of motor vehicles). We also agree that the Customs Tariff has been aligned with the Harmonized system of nomenclature (HSN) provided by the World Customs Organization and that the HSN elucidating the scope of a particular chapter would have persuasive value in determination of scope of headings of corresponding chapter of Customs Tariff as per the law declared by the Hon'ble Supreme Court in the following judgements.

**a. Camlin Limited vs. CCE [2008 (230) E.L.T. 193 (S.C.)]**

**b. Coen Bharat Limited vs. CCE [2007 (217) E.L.T. 165 (S.C.)]**

**c. CCE vs. Bakelite Hylam Limited [1997 (91) E.L.T. 13 (S.C.)]**

5.4. We find that for classification of any goods, due regard will have to be given to the Section Notes, the Chapter Notes and the wordings of the particular chapter headings. In order to classify any product as parts and accessories of motor vehicles, the provisions of Section XVII which covers 'Vehicles, Aircraft, vessels and associated transport equipments' will have to be taken into consideration. Further, Chapter notes to Chapter 87 which covers

vehicles other than railway or tramway rolling stock and parts and accessories thereof' will have a bearing on the classification of the products under that chapter. Further, the Chapter Heading 8708 covering 'parts and accessories of motor vehicles of headings 8701 to 8705' would also be relevant. In this regard, the Section Notes 2 and 3 to Section XVII are as under:-

*"2. The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:*

*(a) .....;*

*(b) .....;*

*(c) .....;*

*(d) .....;*

*(e) machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;*

*(f) .....;*

*(g) .....;*

*(h) .....;*

*(ij) .....;*

*(k) .....; or*

*(l) .....*

*3. References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answer to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory."*

The relevant portion of explanatory notes to HSN for Section XVII for classification of parts and accessories under this Section reads as under:-

***"(III) PARTS AND ACCESSORIES***

*It should be noted that Chapter 89 makes no provision for parts (other than hulls) or accessories of ships, boats or floating structures. Such parts and accessories, even if identifiable as being for ships, etc., are therefore classified in other Chapters in their respective headings. The other Chapters of this*

*Section each provide for the classification of parts and accessories of the vehicles, aircraft or equipment concerned.*

*It should, however, be noted that these headings apply only to those parts or accessories which comply with all three of the following conditions:*

- (a) They must not be excluded by the terms of Note 2 to this Section [See paragraph (A) below] and*
- (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 [see paragraph (B) below] and*
- (c) They must not be specifically included elsewhere in the Nomenclature [see paragraph (C)]."*

We find that in order to classify any goods as a part or accessory of a motor vehicle falling under chapter 8701 to 8705, the goods must pass the aforesaid three tests i.e. they should not be excluded by terms of Note 2 to Section XVII, they must be suitable for use solely or principally with the articles of Chapter 86 to 88 and they must not be specifically included elsewhere in the nomenclature. We find that this view has been elucidated by the Hon'ble Supreme Court in the case of Intel Design Systems (India) Pvt. Ltd Vs. CC and CE reported in 2008 (223) ELT 135 (SC) and a similar view has been followed by the judgements of the various AAR relied upon hereinabove by the applicant. In the light of the above, we proceed to classify the product i.e. After Treatment System supplied by the applicant to various OEM manufacturers.

- 5.5. We find that in order to classify the ATS supplied by the applicant to the OEM manufacturers as parts of motor vehicle under 8708, it has to pass the three-pronged tests as mentioned above. It is seen from the submissions and the documents presented before us that the goods manufactured and supplied by the applicant are as per the specific designs and drawings provided by the OEM manufacturers. They are so designed, that the said product fits perfectly with the exhaust system of the motor vehicles. The said products supplied bear the part numbers, provided by the vehicle

manufacturers. Further, the said product has been so designed that they can fit within the overall design of the motor vehicle and function in an integrated manner with the motor vehicle for which it has been designed. Therefore, we have no hesitation in holding that the said goods have been designed and manufactured and are for use solely or principally with the articles of Chapter 87, in the instant case, motor vehicles. However, in order to sustain the classification under Chapter 87, the said goods should also pass the first test i.e. they should not be excluded by the Note 2 to Section XVII. In this particular case, the said Note 2 (e) that the expression parts and accessories would not apply to machines and apparatus of headings 8401 to 8479, or parts thereof. In order to decide whether this exclusion clause would apply to the facts and circumstances of this case, we would like to refer to the applicants submission, mentioned hereinabove, where they have stated that the ATS supplied by them are designed and manufactured to the specifications supplied by the OEM Manufacturers and automobile manufacturers. They have themselves stated that the said goods cannot be used for any other purpose unless they are re-designed and suitably modified. This admission by the applicant clearly signifies the fact that the product manufactured by them cannot be used as a After Treatment System as a purifier for air or other gases unless it is re-designed or modified for such purposes. Thus, it is seen that the said product cannot be termed as a machine or apparatus falling under Chapter 8421 in as much as it will not be able to function as an apparatus of the said chapter and the same can function as an ATS only if it is fitted with the motor vehicle for which it is designed for use. Thus, it fails the test of functionality which is necessary for classification of a product as a machine or an apparatus. The said product supplied by the applicant is a part of the motor vehicle and will function as an ATS only when it is fitted with the exhaust system of the said motor vehicle. It cannot independently function as an ATS on any other

type of internal combustion engine as it will not be able to carry out its function of purifying the exhaust fumes from such engines. What is recognized in Note 3 can be called the suitability for use test or the user test. The exclusion under Note 2(e) may be of goods which are capable of being marketed independently as ATS System. However, in the instant case, the goods which are being supplied by the applicant are nothing but tailor-made parts of motor vehicles which will function as an ATS system only if it is fitted with the particular motor vehicle for which it has been designed. They cannot, function independently of the motor vehicle. We further find that the goods covered under chapter 8421 are 'filtering or purifying machinery and apparatus for gases'. In this regard a machinery or an apparatus are equipment needed for a particular activity or purpose. It means that the said apparatus or machinery should be able to perform the function for which it is used. In the instant case, it can be seen that the ATS System supplied by the applicant would not be able to perform the function of removing the exhaust fumes, unless it is attached to the motor vehicle for which it is designed. It would not function as an apparatus or a machinery in any other case. Therefore, since it cannot function independently of the motor vehicle for which it was designed and cannot be termed as an apparatus or machine for any other purpose, it cannot be classified under Chapter 8421. This functionality test is relevant in the light of the law laid down by the Hon'ble Supreme Court in the case of G.S. Auto International Ltd Vs. Collector of C.Ex., Chandigarh reported in 2003 (152) ELT (3) SC. Since the goods cannot be classified under Chapter 8421, the provisions of Section Note 2(e) would not be applicable to the said goods. We further find that the said goods are not specifically classified elsewhere in the nomenclature in as much as they are nothing but mandatory parts of motor vehicle, designed for use in specific vehicles as per the specifications of the motor vehicle manufacturer. In view of the above, we find that the said



goods pass all the three tests, envisaged by the HSN and promulgated by the Hon'ble Supreme Court in the case of Intel Design Systems Pvt. Ltd. case. Therefore, we find that the goods are appropriately classifiable under Chapter Heading 8708 of the GST Tariff.

**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- 72/2020-21/B- 217**

**Mumbai, dt. 30.04.2025**

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

**Question 1:** Whether ATS (exhaust after-treatment system) also known as EGP (exhaust gas processor), which is a purifying and filtering apparatus/ equipment is classifiable under tariff heading 84213990 of the Customs Tariff (as is relevant for GST regime), and consequently for GST Law under Serial No. 322 of Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017?

**Answer: No.**

**Question 2:** If ATS cannot be classified under tariff heading 84213990 whether it merits classification under tariff heading 8708 of the Indian Customs Tariff (as applicable to GST Law)?

**Answer: Yes**



**D.P. GOJAMGUNDE  
(MEMBER)**



**PRIYA JADHAV  
(MEMBER)**

**PLACE - Mumbai  
DATE - 30.04.2025**

**Copy to: -**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. 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, 15<sup>th</sup> 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.