

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

BEFORE THE BENCH OF

(1) **Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)**

(2) **Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

GSTIN Number, if any/ User-id		27AAACP6820G1ZJ
Legal Name of Applicant		M/s. Parker Hannifin India Private Limited
Registered Address/Address provided while obtaining user id		Plot EL-26 MIDC TTC Industrial Area, Mahape, Navi Mumbai, India 400 709
Details of application		GST-ARA, Application No. 109 Dated 17.02.2020
Concerned officer		RAI-VAT-E-002, Raigad Division
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Factory/Manufacturing
B	Description (in brief) (As per applicant)	Parker Hannifin India Private Limited, the “ Applicant ” having manufacturing premises at Plot EL-26, MIDC, TTC Industrial Area, Navi Mumbai, manufactures and supplies various products for use in the railway/ construction /oil & gas as also other industries. The present application concerns classification of “ Compressed Natural Gas Dispenser ” manufactured by the applicant, which is supplied for use at Compressed Natural Gas (“ CNG ”) dispensing stations for vehicles and automobiles, which are operated by city gas distribution Companies like Mahanagar Gas Ltd, Gujarat Gas Ltd etc.
Issue/s on which advance ruling required		➤ 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.

NO.GST-ARA- 109/2019-20/B- 112

Mumbai, dt. 15/12/2021

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. Parker Hannifin India Pvt. Ltd.** the applicant, seeking an advance ruling in respect of the following questions.



Whether the CNG Dispenser manufactured and supplied by the Applicant is correctly covered in SL. No. 422, Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017 as amended and corresponding notification issued under integrated GST and State GST Act.

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

2. FACTS AND CONTENTION – AS PER THE APPLICANT

- 2.1 *Parker Hannifin India Private Limited, Applicant having manufacturing premises at Plot EL-26, MIDC, TTC Industrial Area, Mahape Navi Mumbai, has filed the present application which concerns manufacture of “Compressed Natural Gas Dispenser” (hereinafter referred to as “CNG Dispenser”), supplied for use at Compressed Natural Gas (“CNG”) dispensing stations for vehicles and automobiles.*
- 2.2 *The CNG Dispenser, constantly measures and regulates the mass and pressure of natural gas being transferred to the vehicle so as to ensure that the rated pressure capacity of the CNG tank in the vehicle is not exceeded. Upon the pre-set values being reached, the CNG Dispenser, automatically, by way of a control unit and actuator, cuts the supply of CNG to the CNG tank in the vehicle.*
- 2.3 *To commence refueling of CNG vehicles, the drivers / operators unhook the NGV/NZS nozzle from the CNG Dispenser and hook-up to the receptacle of the CNG tank in the vehicle. Thereafter, the dispensing of CNG would commence upon activation. Throughout the process of dispensing, the CNG Dispenser measures and regulates the pressure.*
- 2.4 *Presently, the Applicant is clearing the CNG Dispensers under Heading 84.13, covered in Sl. No. 117, Schedule IV of Notification No. 1/2017-C.T. (Rate) dated 28.06.2017. The CNG Dispenser does not have a pump or a pumping function. Rather, it has inlets and outlets which allows for movement of the CNG from the storage tank to the vehicle via the CNG Dispenser. The reason for movement of the CNG is that the pressure in the tank is low, while that of being dispensed is high. Hence, by principle of simple physics, viz., gas moves from a region of high pressure to low pressure. Further, there is no application of external force for causing movement of CNG into the vehicle.*



- 2.5 Applicant now feels that the CNG Dispenser is not classifiable Sl. No. 117, Schedule IV of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017 (Heading 84.13) since the same covers **"pumps for dispensing fuel of the type used in filling stations or garages"**.
- 2.6 Applicant submits that as per Explanation (iv) of Notification No. 1/2017-C.T (Rate) dtd 28.06.2017, the rules for interpretation including Section Notes and Chapter Notes to the Customs Tariff shall apply for the interpretation of the present notification also. The scope of Heading 84.13 is as under:

Tariff Item	Description of Goods
8413	Pumps for liquids, whether or not fitted with a measuring device; liquid elevators
	- Pumps fitted or designed to be fitted with a measuring device
8413 11	-- Pumps for dispensing fuel or lubricants, of the type used in filling stations or garages

- 2.7 Heading 84.13 and sub-heading 84.13 11 supra, is identical to Sr. No. 117 as reproduced above. Further, as evidenced from a reading of Heading 84.13 and sub-heading 84.13 11, a sine qua non for classification therein is that, the goods in question must be a pump. If there is no pump, there is no applicability of Heading 84.13 at all. This is supported by Rule 1 of General Rules of Interpretation to the Customs Tariff that the most specific heading is to be preferred for classifying goods.

- 2.8 Further, the relevant extract of the HSN Explanatory Notes to Heading 84.13 is reproduced below:

"This heading covers most machines and appliances for raising or otherwise continuously displacing volumes of liquids (including molten metal and wet concrete), whether they are operated by hand or by any kind of power unit, integral or otherwise.

***The heading also includes delivery pumps equipped with measuring or price-calculating mechanisms such as are used for supplying petrol or oil in garages,** and also pumps specially designed for use with other machines, vehicles, etc. (including petrol, oil or water pumps for internal combustion engines, and pumps for manmade textile fibre spinning machines).*

The machines of this heading can be subdivided, according to their system of operation, into the following five categories.

(A) Reciprocating Positive Displacement Pumps

(B) Rotary Positive Displacement Pumps



(C) Centrifugal Pumps

(D) Other Pumps

Subheading Explanatory Note.

Subheadings 8413.11 and 8413.19

These subheadings cover only those pumps, of whatever type, which form, or have been designed to form, a unit with a device permitting the volumetric control of the quantity of liquid discharged, whether or not this device is presented at the same time as the pump.

These subheadings cover, for example, pumps for delivering petrol or other motor fuels and lubricants as well as pumps with a measuring device for use in food shops, laboratories and various industrial activities."

- 2.9 *From the above, it is necessary that there be present (a) pump and (b) the pump must be for continuously displacing volume of liquid. Further, per the sub-heading explanatory note, sub-heading 84.13 11 covers only those pumps which are a unit permitting the volumetric control of the quantity of liquid discharged.*
- 2.10 *In the present facts, the CNG Dispenser merely regulates the pressure and mass of the CNG and it does not pump, by way of suction, rotation, electro-magnetic forces or the like.*
- 2.11 *In addition to the above, as per the explanatory notes for classifying a product in Heading 84.13/ sub-heading 84.13 11, the same must be a pump for a liquid. This is equally fortified by the explanatory notes to sub-heading 84.13 11 which provides that "these subheadings cover only those pumps... which ... have been designed to form... device permitting the volumetric control of the quantity of liquid discharged"*
- 2.12 *In the present case, no liquid is being discharged by the CNG Dispenser. Rather what is being transmitted is gas and nothing else, which the CNG Dispenser only regulates. Therefore, it is submitted that there not being a "pump" for a "liquid", the CNG Dispenser cannot be classifiable under Heading 84.13 and consequently, is not covered vide Sr. No. 117, Schedule IV of Notification No. 1/2017-C.T. (Rate) dated 28.06.2017. The appropriate classification is Heading 90.32 whose text is reproduced below:-*

<i>Tariff Item</i>	<i>Description of Goods</i>
9032	<i>Automatic regulating or controlling instruments and apparatus</i>

- 2.16 *The relevant part of HSN Explanatory Notes to Heading 90.32 is reproduced below:-*

"In accordance with Note 7 to this Chapter, this heading covers:

- (A) *Instruments and apparatus for automatically controlling the flow, level, pressure or other variables of liquids or gases, or for automatically controlling temperature,*



whether or not their operation depends on an electrical phenomenon which varies according to the factor to be automatically controlled, which are designed to bring this factor to, and maintain it at, a desired value, stabilised against disturbances, by constantly or periodically measuring its actual value; and

(I) **INSTRUMENTS AND APPARATUS FOR AUTOMATICALLY CONTROLLING THE FLOW, LEVEL, PRESSURE OR OTHER VARIABLES OF LIQUIDS OR GASES, OR FOR AUTOMATICALLY CONTROLLING TEMPERATURE**

Automatic control apparatus for liquids or gases and apparatus for automatically controlling temperature form part of complete automatic control systems and consist essentially of the following devices:

- (A) A device for measuring the variable to be controlled (pressure or level in a tank, temperature in a room, etc.); in some cases, a simple device which is sensitive to changes in the variable (metal or bi-metal rod, chamber or bellows containing an expanding liquid, float, etc.) may be used instead of a measuring device.
- (B) A control device which compares the measured value with the desired value and actuates the device described in (C) below accordingly.
- (C) A starting, stopping or operating device.

Apparatus for automatically controlling liquids or gases or temperature, within the meaning of Note 7 (a) to this Chapter, consists of these three devices forming a single entity or in accordance with Note 3 to this Chapter, a functional unit."

2.17 Therefore, in accordance with the HSN Explanatory Notes, the goods in question must be an automatic control device with three seminal criterion in terms of which the particular item would be classifiable under Heading 90.32. It is submitted that the CNG Dispenser in question satisfies all the requirements, as shown infra:

- (A) **Device for measuring the variable to be controlled:** In the present case, the CNG Dispenser measures both mass and pressure of the CNG being dispensed into the vehicle by the mass flowmeter and the pressure sensor;
- (B) **Control device which compares the measured value with the desired value and actuates the device described in (C) below:** Controller unit of the CNG Dispenser continuously compares the mass and pressure of the CNG in the CNG tank and actuates by way of stopping or cutting-off the supply of natural gas once the desired values are reached;



(C) *A starting, stopping or operating device: As explained in (B) above, the control unit keeps a check on the pressure and mass and as and when the desired/ safe values are reached, supply is stopped by way of actuators and valves.*

2.18 *Hence, as evidenced from supra, the pre-requisites of an automatic control system stand satisfied and hence, the device is correctly classifiable under Heading 90.32 and consequently, covered vide Sl. No. 422, Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017.*

2.19 *In addition to the above, it is submitted that the exclusion provided for in the HSN Explanatory Notes to Heading 90.32 is also not applicable in the present case.*

2.20 *Basis a bare reading HSN Explanatory Notes to Heading 90.32, it is clear that if the controlling device is combined with the appliance which carries out the orders of pumping/ compressing etc., only then is the measuring device liable to be classified in the entry relating to the appliance which carries out the orders. In the present case, the CNG Dispenser does not do the job of compression and is never presented along with a compressor. Rather, it is sold as a separate and distinct unit. Hence, there is no application of the exclusion thereto.*

2.21 *Further, even vide Section Note 3 to Section XVIII, the CNG Dispenser deserves to be classified under Heading 90.32 itself. Section Note 3 to Section XVIII provides that Section Notes 3 and 4 to Section XVI apply mutatis mutandis to Chapter 90. Section Note 3 of Section XVI provides that machines having two or more complimentary functions are to be classified basis the principal function. Per the HSN Explanatory Notes thereto, this note is not to be relied upon in case the composite machine is covered by a particular heading. In the present case, even if assuming that the CNG Dispenser is a composite machine, it is specifically covered by Heading 90.32 and hence, deserves to be classified therein itself. Hence, by this yardstick classification under Heading 90.32 is correct. Without prejudice, even if it is assumed that the mass and pressure functions are both principal, then per the HSN Explanatory Notes, Rule 3(c) of the General Rules of Interpretation is to be applied, i.e., the entry that occurs last. Measuring instruments are covered in Heading 90.26 and regulating apparatus in Heading 90.32. By application of Rule 3(c), Heading 90.32 is the appropriate classification.*

2.22 *Section Note 4 to Section XVI provides that a combination of machines intended to contribute to a clearly defined function are to be classified in the heading appropriate to that function, which is regulating in the present case. The same parity of reasoning that is provided for Section Note 3 of Section XVI supra applies herein also and therefore the correct classification would be Heading 90.32 itself.*



Applicant Submission dated 10.11.2021:-

- 2.23 The department has claimed that the CNG Dispenser is correctly classifiable under Heading 84.13 for the reason that since the function of the said item is to dispense fuel, it would be covered therein itself.
- 2.24 It is submitted that the submission of the department is ex-facie bad in law and without any basis. As the text of Heading 84.13 itself states, what is covered is a "pump for dispensing fuel in filling stations or garages". It is an undisputed and accepted position by the department that there is no pump in the CNG Dispenser of the Appellant. Hence, on first principles itself, there being no pump or pumping function, Heading 84.13 is inapplicable and deserves to be discarded forthwith.
- 2.25 It is further submitted that it is also evident from a plain reading of the HSN Explanatory Notes to Heading 84.13 which have been annexed to the application. A bare perusal thereof would show that the sine qua non for inclusion is Heading 84.13 is the existence of a pump, which undisputedly so, is not in the present case.

03. CONTENTION – AS PER THE CONCERNED OFFICER:

OFFICER SUBMISSION ON 20.01.2021:-

- 3.1 The applicant stated that there is no liquid being discharged by the CNG Dispenser. Rather what is being transmitted is gas and nothing else, which the CNG Dispenser only regulates. But the main purpose of CNG dispenser is to transmit the fuel & as per the Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017, CNG dispenser covered under heading 8413 "Pumps for dispensing fuel or lubricants of the type used in filling stations or garages [8413 11], Fuel, lubricating or cooling medium pumps for internal combustion piston engines [8413 30]." Therefore CNG dispenser is liable to tax 14% CST & SGST both or 28% IGST.

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 21.01.2021. Shri. Shridhar Khedkar & Shri. Abhishek Naik, CA appeared, and requested for admission of the application. Jurisdictional Officer Shri. Thombare, Deputy Commissioner, LTU Division, Navi Mumbai also appeared.
- 4.2 The application was admitted and called for final e-hearing on 22.10.2021. The Authorized representative of the applicant, Shri. Mayank Jain, learned Advocate and Shri. Dinesh Agarwal, learned C.A were present. The Jurisdictional officer Shri. Subhash Mohite, Deputy Commissioner, LTU-002, Raigad was also present.

4.3 We heard both the sides



05. OBSERVATIONS AND FINDINGS:

- 5.1 We have perused the records on file, facts of the case and the submissions made by the applicant as well as the jurisdictional officer. The matter is related to the classification of CNG Dispenser manufactured and supplied by the Applicant; whether it is correctly covered in Sr. No. 422, Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017 as amended and corresponding notification issued under integrated GST and State GST Act.
- 5.2 M/s Parker Hannifin India Private Limited, the Applicant, manufactures and supplies ***“Compressed Natural Gas Dispenser”*** (***“CNG Dispenser”***), for use at Compressed Natural Gas (***“CNG”***) dispensing stations for vehicles and automobiles. The applicant has submitted that they are currently clearing the CNG Dispensers under Heading 84.13 of the GST Tariff under Sr. No. 117, Schedule IV of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017. As per applicant’s submissions, since the CNG Dispenser neither has a pump, nor a function of a pump or similar thereto and merely measures and controls the amount of CNG being filled, the Applicant has preferred the current application for a determination of the classification and are of the opinion that the impugned product is correctly covered under Sr. No. 422, Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 as amended, and therefore applicant has made submissions accordingly.
- 5.3 The crux of their contention is, to cover the impugned product under Sr. No. 422, Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, and that the said product is classifiable under HSN 90.32 of the GST Tariff since the CNG Dispenser does not have a pump or a pumping function but merely measures and controls the amount of CNG being filled and is therefore nothing but an Automatic regulating or controlling instrument/apparatus.
- 5.4 As per the Merriam Webster dictionary, a ‘pump’ is a device that raises, transfers, delivers, or compresses fluids or that attenuates gases especially by suction or pressure or both.
- 5.5 Further, as per the Cambridge dictionary, a “pump” is a piece of equipment that is used to cause liquid, air, or gas to move from one place to another:
- 5.6 Finally, as per Collins Dictionary, A ‘**pump**’ is a machine or device that is used to force a liquid or gas to flow in a particular direction.
- 5.7 Further, as per the Definitions.net, a “Fuel Dispenser” is a machine at a filling station that is used to pump gasoline, petrol, diesel, CNG, CGH₂, HCNG, LPG, LH₂, ethanol fuel, biofuels like biodiesel, kerosene, or other types of fuel into vehicles. Fuel dispensers are also known



as bowzers (in Australia), petrol pumps (in Commonwealth countries), or gas pumps (in North America).

5.8 The impugned product causes the CNG to flow from the filling station to the CNG Tank of the vehicle. Thus there is a flow of gas in one particular direction and it is the CNG Dispenser which is causing the CNG to move from one place to another. Thus the impugned product is also functioning as a pump in view of the definitions mentioned above. It can therefore be said that CNG fuel dispensers are used for distribution of Compressed Natural Gas (CNG) which is a fuel and as per the submissions of the applicant, they are equipped with electronic counters of quantity and price of pumping.

5.9 The product catalog submitted by the applicant of CNG Dispenser clearly indicates that the product is a complete system meant for dispensing CNG and is fitted with hoses, Electronics, tubes & fittings, regulators, valves, nozzles, filters, solenoid and actuators etc. It has been amplified in catalog that *“the System is extremely safe, uses low power, dispenses accurately, uses all stainless steel tubes, fittings and connections and has a high resilience to wear and tear”*

5.10 We find that Chapter Heading 8413 11 of the GST Tariff covers **“Pumps for dispensing fuel or lubricants of the type used in filling stations or garages”**. The impugned product is designed to dispense fuel, in this case CNG, which are used in filling stations, and acts as a pump which causes CNG, a gas, to move from one place to another. Thus the impugned product can be said to be a type of pump which are used for dispensing fuel and are therefore classifiable under HSN 8413 11 91 of the GST Tariff.

5.11 Section XVI of the GST Tariff covers Chapter Heading 84 and 85 of the GST Tariff. Note 1 (m) of the Section Notes states that, articles of Chapter 90 of the GST Tariff are not covered under Section XVI i.e. Chapters 84 and 85 of the GST Tariff. Further primary function of the impugned product is to dispense CNG Fuel and has an inbuilt mechanism to constantly measure and regulate the mass of Gas being transferred to the vehicle.

5.12 As per Note 4 of Section XVI of GST Tariff, where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function. In the instant case the product performs function of a pump of type used in filling stations to dispense CNG Fuel, thus merits classification under HSN 8413 11.



- 5.13 Further as per WCO Harmonized Commodity Description and Coding System, Explanatory Notes to Subheadings 8413.11 and 8413.19, “these subheadings cover, for example, pumps for delivering petrol or **other motor fuels** and lubricants as well as pumps with a measuring device for use in food shops, laboratories and various industrial activities”.
- 5.14 Since we have found that the impugned product is covered under Chapter Heading 8413 11 of the GST Tariff, it is not covered under in SL. No. 422, Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017 as amended as the impugned product cannot be classified under Chapter 90.32 of the GST Tariff.
06. In view of the above discussions, we pass an order as follows:

ORDER

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

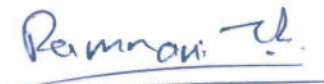
For reasons as discussed in the body of the order, the questions are answered thus –

Question: - Whether the CNG Dispenser manufactured and supplied by the Applicant is correctly covered in SL. No. 422, Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28 June 2017 as amended and corresponding notifications issued under integrated GST and State GST Acts?

Answer: - Answered in the negative.




RAJIV MAGOO
(MEMBER)


T.R. RAMNANI
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The 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, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.