

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

BEFORE THE BENCH OF

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

ARN No.	AD270220020047S
GSTIN Number, if any/ User-id	27AAACC7258BIZW
Legal Name of Applicant	M/s. Cummins India Limited
Registered Address/Address provided while obtaining user id	Cummins India Office Campus, Tower A & B, Survey No. 21, Balewadi Pune - 411 045.
Details of application	GST-ARA, Application No. 117 Dated 27.02.2020
Concerned officer	Division V, Commissionerate Pune-II.
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A	Category
	Factory / Manufacturing
	Description (in brief) (As per applicant)
	Cummins India Ltd, the Applicant, manufactures & sells engines, gensets, and parts thereof and undertakes related services & all day-to-day activities required. Applicant <i>also</i> supplies parts of diesel marine engines & power generation systems to Indian Navy for application/ fit-out & use in ships or vessels (of the Indian Navy).
	Issue/s on which advance ruling required
	➤ Applicability of a notification issued under the provisions of the Act.
	Question(s) on which advance ruling is required
	As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 117/2019-20/B-

106

Mumbai, dt. 09/12/2021

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. Cummins India Limited** , the applicant, seeking an advance ruling in respect of the following question.

Whether parts of diesel marine engine or genset supplied or to be supplied by the Applicant to the Indian Navy are chargeable to 5% IGST or 2.5% CGST + 2.5% SGST as ‘parts of heading of

8902, 8904, 8905, 8906 and 8907' in terms of Sr. No. 252 of Notification No. 1/2017-Central Tax (Rate), dated 28 6-2017 ?

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

2. A. FACTS AND CONTENTION – AS PER THE APPLICANT

- 2.1** *M/s Cummins India Limited, the Applicant manufactures diesel and natural gas engines, power generation systems, etc. The applicant's business, broadly, comprises of these three segments which includes Distribution business, wherein Applicant provides products, packages, services and solutions for ensuring uptime of equipment supplied; provides parts, new and rebuilt engines, batteries, varied services and customer support solutions.*
- 2.2** *Applicant supplies parts of marine diesel engines and gensets to customers such as the Indian Navy, and various shipyards and also other customers for application/ use in ships or vessels. The parts supplied by / to be supplied by the Applicant to the Indian Navy, include numerous and diverse parts, intended for use in marine engines or gensets, of ships or vessels (of the Indian Navy).*
- 2.3** *The classification of ships or vessels (including those used by the Indian Navy), falls under Chapter No. 89 of Customs Tariff Act, 1975, typically under tariff heading number 8901,8902,8904,8905, 8906 and 8907.*
- 2.4** *Subject application is made to seek ruling in respect of all such parts of, meant for and supplied for ships and vessels of the Indian Navy, and which are used in ships or vessels of the Indian Navy.*
- 2.5** *Applicant supplies parts such as sea water pump, gasket, connection, link injector plunger, gasket flange, seals, shield for shut of the valve, thermostat, plug injector orifice, etc. to the Indian Navy, for their use and fit-out in the marine diesel engine or genset of the ships and vessels.*
- 2.6** *In respect of the supply of the parts to the Indian Navy for fit- out in, use in ships or vessels, the following information and documents are relevant: (a) Tender documents issued by the Indian Navy (a sample is enclosed and marked as Exhibit B) ; (b) Standard sourcing process which showcases that supplies by the Applicant are for use in ships or vessels ; (c) Purchase order raised by the Indian Navy, in the context of this application, specifies the description of goods to be supplied; sample purchase orders (dated 12 March 2019 and 7 December 2019) are enclosed*

with this application and marked as Exhibit D ; (d) Chartered Engineer's certificate specifies that the parts supplied by the Applicant to the Indian Navy are capable of being used as part of the ships or vessels (enclosed as Exh E, is a certificate dated 15.01.2020 issued by Kamal Biyani Associates); and (e) Declaration-Certificate from the Indian Navy (copy marked as Exhibit F) certifying that goods supplied by the Applicant are for the exclusive use of the Indian Navy, and fall under entry at Sr. No. 252 of Notification No. 1/2017-Central Tax (Rate), dated 28th June, 2017.

- 2.7 The classification and GST rates, applicable to a sample list of parts supplied/to be supplied to the Indian Navy is reproduced below, solely for illustration purposes:-

Chapter heading under Customs Tariff Act, 1975	Description of goods	GST rate (Cumulative)
4016	Other articles of vulcanised rubber other than hard rubber	18%
7326	Other articles of iron or steel	18%
8414	Air or vacuum pumps, air or other gas compressor and fans, ventilating or recycling hood incorporating a fan whether or not fitted with filter	18%
8409	Parts suitable for use solely or principally with engines of heading 8407 or 8408	28%
8484	Ball or roller bearings	18%
8483	Transmission shaft (including cam shafts) and cranks, bearing housings and plain shaft bearings, ball or roller screws, gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft coupling (including universal joints)	18%
8484	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal; set or assortment of gaskets and similar joints, dissimilar in composition, put up in pouches, envelops or similar packings, mechanical seals	18%
8503	Parts suitable for use solely or principally with the machines of heading 8501 or 8502	18%

- 2.8 Sr. No. 252 of Schedule 1 of Notification No. 1/2017 – C.T. (R), dated 28.06.2017 stipulates that “Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907 are taxable at the rate of 5%”. The parts supplied/ to be supplied by the Applicant are covered under different tax rate brackets

however, the said parts supplied / to be supplied to the Indian Navy, are intended for and to be used (as parts) in ships or vessels of the Indian Navy, and which ships or vessels are classified under heading 8901 to 8907 thus attracting 5% IGST (2.5% CGST and SGST each).

- 2.9 Applicant's supply of varied parts to the Indian Navy which qualifies as parts of headings of 8901, 8902, 8904, 8905, 8906, 8907, is covered under Sr. No. 252 mentioned above eligible for the cumulative GST rate of 5%.

B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

- 2.10 The ships and vessels operated by the Indian Navy are classified under Chapter headings 8901, 8902, 8904, 8905, 8906, and 8907 and have incorporated within it, engines and gensets, (parts of the ships or vessels), & for which Applicant supplies / will supply parts, covered under different Chapter headings under the Customs Tariff Act, 1975, for application/ fit-out and use in ships or vessels of the Indian Navy. The present application is concerned with such parts, which include numerous and diverse items, supplied / to be supplied by the Applicant. The said parts are used in the marine engines and gensets, owing to their technical specifications and functional aspects.

- 2.11 The Applicant submits that, on a plain and literal reading of the said entry at Sr. No. 252 of Notification 1/2017- C.T.(R) dated 28.06.2017, all goods used as part of goods which fall under tariff headings 8901, 8902, 8904, 8905, 8906, 8907, even though classifiable under any chapter of the GST Tariff, deserve to and get covered under the said entry. In support of this proposition, the Applicant relies upon judgement of the Hon'ble Supreme Court in *Oswal Agro Mills Ltd. Vs. CCE*, a position which was reiterated in *Tata Consultancy Services vs. State of Andhra Pradesh*.

- 2.12 The Applicant has enclosed various documents and material, particularly by Exhibits B to F, which evidence and demonstrate that parts supplied / to be supplied by the Applicant are supplied to the Indian Navy, for their use in marine diesel engines or gensets of the ship or vessels of the Indian Navy, i.e. goods falling under headings 8901, 8902, 8904, 8905, 8906, and 8907.

- 2.13 In support of the contention that, impugned goods will merit (in present case) the rate of 5%, so long as the goods answer to the description in Sr. No. 252, Applicant refers to the judgement in the case of *Mahindra & Mahindra Limited Vs. Commr of Central Excise, Nagpur* [2007 (210) E.L.T. 579 (Tribunal)] wherein the Hon'ble Tribunal evaluated availability of exemption to goods falling under "any Chapter", when used as parts of goods of Heading 8701. Similar view was taken by the Hon'ble Tribunal in the case of *High Energy Batteries (I) Limited Vs. Commissioner of Central Excise, Trichy* (2002 (142) E.L.T. 266 (Tribunal)], pertaining to parts of an aircraft or a helicopter.

2.14 Upon application of the ratio of these judgements, parts (goods) when supplied for use/ fit-out in ships or vessels, as in the present case, to the Indian Navy, in terms of Sr. No. 252, these goods qualify for the concessional rate of GST, irrespective of the classification of these goods. The Applicant submits that the said parts supplied / to be supplied by the Applicant are to be considered as parts of goods of heading 8901 to 8907 covered under entry at Sr. No. 252, in terms of the law declared by the Hon'ble Supreme Court in case of *M.C.E. Products Sales and Services Ltd. vs. Commissioner of Central Excise* [2002 (144) E.L.T. 457 (S.C.)].

2.15 In the context of the Applicant's business and present factual matrix, in the light of the judgment of the Hon'ble Supreme Court, a "part is an essential component which makes up the whole (equipment, machinery, chattel). In the present case, the impugned parts supplied by the Applicant are incorporated as a part of the Indian Navy's ships or vessels. In support is appended to this application, the chartered engineer's certificate dated 15th January 2020. Even the Declaration-Certificate of the Indian Navy, dated 18.04.2018 states that impugned goods are for the exclusive use of the Indian Navy, and fall under entry at Sr. No. 252 of Notification No. 1/2017-C.T.(R), dated 28.06.2017. Besides these, upon considering the material at Exhibits B, C and D, i.e. reflecting upon the process and procedure adopted by the Indian Navy for the procurement of the parts in question, it is strongly believed that, parts supplied by the Applicant deserve to and must be construed as parts of ships or vessels and thus merit the concessional GST rate of 5%.

2.16 To further substantiate its submissions, described hereunder are the user-aspects of very select parts supplied/ to be supplied by the Applicant, which amply depict the characteristics and thereby use of these products in the ships or vessels:

Sr. No.	Name of the part	Use of the part in marine engines or gensets of ships or vessels
1	Fuel Shutoff Valve (3096859)	This valve is operated electrically to start/stop the engine
2	Thermostat Housing (3874652)	This item houses thermostat inside it which maintains/ controls engine cooling temperature
3	Cap Filler (101322)	This part is used to seal the Oil filling Tube through which engine oil is added into the marine diesel engine
4	Lever Throttle (149104)	This item controls engine RPM, It is also used to adjust engine RPM during load conditions
5	Bearing Connecting Rod (203660)	This part is used to avoid direct contact between engine crankshaft and Connecting Rod and reduce friction in overall operations
6	Cup Injector (3012537)	This is a part of the assembly which directs fuel on the Piston in a controlled manner for its combustion

		<i>for producing power</i>
7	<i>Motor Starting (3026797)</i>	<i>This is an air operated Starter used to Start the engine of the ship or vessel</i>
8	<i>Screen Filter (3054999)</i>	<i>This is used to remove any foreign particles in the diesel from entering into Injector.</i>
9	<i>Camshaft (3074704)</i>	<i>This is used to control engine operations i.e. opening/ closing of valves, operation of injector</i>
10	<i>Float (3178893)</i>	<i>This part is used in a Float Tank in the Fuel Line which maintains height of fuel above engine centre line.</i>
11	<i>Water pump</i>	<i>This is used to circulate coolant in engine to maintain engine operating temperature</i>
12	<i>Valve exhaust</i>	<i>This is used in Cyl Head which helps release exhaust gas from combustion chamber</i>
13	<i>Belt- drive</i>	<i>This drives Water Pump of the engine which cools the engine</i>
14	<i>Adapter, pipe</i>	<i>Works as a joint to connect two pipes</i>
15	<i>Air cleaner</i>	<i>This item cleans Air before entering engine.</i>

2.17 The above list depicts that the parts supplied/ to be supplied by the Applicant are essential components of the marine engines and gensets used in ships or vessels, without which, the marine engines and gensets may well be incapable of the desired outcome / performance.

2.18 The Applicant refers to the judgement in the case of Commissioner of Cus. (Import), Mumbai Vs. Dilip Kumar & Company (2018 (361) E.L.T.577 (S.C.)) wherein the Supreme Court declared the law that taxing statute (imposing tax liability) should be interpreted strictly and burden to prove tax liability would rest on the revenue authorities.

2.19 On perusal of aforesaid judgement, a taxing statute should be interpreted strictly. Accordingly, in the present case, Sr. No. 252 of Notification No. 1/2017-C.T.(R), dated 28.06.June 2017 needs to be interpreted strictly. Hence, parts supplied by the applicant, even when classified under "any Chapter" would be covered under Sr. No. 252 above; since the same are used a parts of ships or vessels (i.e. goods of heading 8901, 8902, 8904, 89065, 8906, 8907).

2.20 The Applicant next refers to the decision of Collector of Central Excise vs. Mahendra Engg. Works [169 (67) E.L.T. 134 (Tribunal)] wherein the Hon'ble Tribunal evaluated whether exemption for parts of power-driven pumps can be extended to "stampings and laminations" which are parts of parts/components used in power driven pumps (viz. Electric motors/ rotors/ stators). The Hon'ble Tribunal endorsed the benefit of exemption to the items in question, since these were also regarded as parts of the power-driven pumps. In the case of Mahendra Engg., it becomes clear that even in respect of items that are parts of parts (in other words, child parts) of another product, the said items will be regarded as parts of the product.

- 2.21 Applicant further refers to the judgement in the case of *Mehra Brothers v. Joint Commercial Officer (1991(51) ELT 173 (SC))* as per perusal of which, the term "part" has a broad coverage and the same includes any article which is an adjunct or accompaniment or addition for the convenient use of another part. Upon an application of the ratio of the referred judgement to the present facts, any article or product that is fitted to the ship or vessel can be construed to be a part or accessory of such ship or vessel. Similar view was taken in advance ruling in case of *Bharat Electronics Limited [2019 TIOL-289-AAR-GST]*.
- 2.22 Basis the Declaration-Certificate of the Indian Navy (enclosed as Exhibit F), other supporting documents and above analysis, it is this Applicant's understanding and view that parts supplied / to be supplied for use by the Indian Navy, in goods (ships or vessels) classifiable under tariff heading 8901, 8902, 8904, 8905, 8906 and 8907, are parts of ships or vessels and accordingly, supply of such parts (to the Indian Navy) can be effected at the cumulative rate of 5% GST, in terms of Sr. No. 252 of Schedule I of Notification No. 01/2017-Central Tax (Rate).

03. CONTENTION – AS PER THE CONCERNED/JURISDICTIONAL OFFICER:
OFFICER SUBMISSION DATED 27.05.2021:-

The department's comments/stand in this regard is as follows:-

- 3.1. Tariff classification of merchandise under the Harmonized System is governed by the principles set forth in the General Rules of Interpretation ("GRIs"). The GRIs are intended to be consulted and applied each time merchandise is to be classified under the Harmonized System. Accordingly, it is the GRIs that are the single set of legal principles that always govern the classification of merchandise under the Harmonized System. Rule 3 of General Rules for interpretation of Customs Tariff made applicable to GST in its first sentence to GRI 3 (a) provides that goods should be classified in the heading that provides the most specific description. In general, under this criterion,

- (1) A description by name is more specific than a description by class and
- (2) A description that more clearly identifies a product is more specific than one which is less complete.

Rule 3(a): Prefer the Specific entry over the general entry

Rule 3(a) states: 3. when by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more heading search refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in

relation to those goods, even if one of them gives a more complete or precise description of the goods.

Rule 3 stipulates that the Heading that provides the more specific description shall be preferred over an entry with generic description. In case of *Jyoti Industries v. CCE* (2000) 115 ELT 559 (CEGAT), it was held that Kitchen sink is more appropriately covered under "sanitary ware" (i.e. CTH 7324 [Sanitary ware and parts thereof]) which is a specific description than "household articles of iron and steel" (i.e. CTH 7323 which is a general description.

- 3.2 The principle was laid down that "when an article is by all standards classifiable under a specific item in the Tariff Schedule it would be against the very principle of classification to deny it the parentage and consign its residuary item".

In case of *Commissioner of VAT v Taneja Mines* (2011) 273 ELT 228 (Delhi)(DB) it was held that religious picture would mean pictures used for purpose of religious worship and propagation. The mere fact that the religious pictures are mounted/framed is a matter of irrelevance.

- 3.3 Additionally, It is seen that parts supplied/to be supplied to the Indian Navy by the Applicant falls under Chapter headings 8414, 8482, 8483, 8484 etc. occurring in Central Excise Tariff & Customs Tariff are basically related to Machinery and Mechanical Appliances and attracting chargeable duty on the classification of this Tariff heading, i.e. 9% CGST & SGST, 18% IGST. Whereas, the chapter 89 is related to classification of Ships/ Boats/Floating Structures and attracts chargeable duty on the classification of this Tariff heading, i.e. 2.5% CGST/SGST, 5% IGST.

- 3.4 Classification of parts is subject to the notes in the Sections and Chapters. Broadly, parts suitable solely for a particular machine generally fall under the same heading/ sub -heading in which the main item falls. However, there are certain exceptions to this general rule. Parts of General Use Parts of general use consist of tube and pipe fittings, ropes, cables, chains, screws, bolts, etc. For example, a bolt used in a vehicle will be classified as "bolt" and not as "motor vehicle part."

It has been held in *CCE v. Carrier Aircon Ltd.* (2006) 147 STC 421 (SC) that end use to which a product is put is not determinative of its classification. For example, "axle studs" will be classifiable as "screws" even if these are used on motor vehicles as held in *Kwality Sales Corporation v. CCE*.

- 3.5 In *Indian Aluminium Cables Ltd. vs. UOI* (21) ELT 3 (SC) it was held that process of manufacture and end use to which it is put, cannot necessarily be determinative of classification of that product under fiscal statute like CETA. What is more important is that whether the broad description of the article fits in the expression used in the tariff. Therefore, predominantly, the end user test would not be used as a first principle and would come in last if there is no other test or the tariff

entry itself is based on end use. Specific entries will have to be adopted in place of a general description.

- 3.6 Hence, from the above rulings it is imperative that the principle that specific heading overrides a general heading is well established in tax statutes.
- 3.7 The Parts supplied/ to be supplied by the Applicant are as mentioned in Annexure II and are therefore not reproduced.
- 3.8 It may be noted that the parts/components mentioned in Annexure II are basically not the integral parts of the Ships/vessels, but mostly the parts of engines which would do the same function irrespective of to which machine it is coupled/attached/used with. For example the fuel shutoff valve is operated electrically to start or stop the engine depending upon need. Fuel shutoff valve is not specifically used only for the ships/vessels, and can be used in aero planes, motorcycles etc. also. Hence, it is independent of machine to which it is attached. That doesn't mean they become parts of vehicles or machines. Therefore, it is wrong to say that fuel shutoff valve falls under chapter 89. This should be rightly classifiable under chapter 84. The same is applicable to all the other parts supplied/to be supplied by the applicant to the Indian Navy for their Ships/Vessels.

Officer Submission dated 09.07.2021:

- 3.9 The applicant also undertakes the activity of overhaul and repair of engines which typically involves the customer sending engines/equipment to the applicant. As a part of overhaul and repair arrangement/engagement, the applicant is generally required to render various services and supply different parts/sub-assemblies to its customers. The applicant is contemplating entering into such agreement with Oil and Natural Gas Corporation Limited (ONGC) for overhaul and repair of engines and sub-assemblies.
- 3.10 The applicant seeks an Advance Ruling to ascertain whether:
- i) Arrangement for overhaul and repair of are “composite supply”
 - ii) The “principal Supply” is that of ‘service’ and
 - iii) Resultantly, the rate of tax(GST) for all supplies(consisting of parts/sub-assemblies and repair services) is 18%
- 3.11 Clause(30) of Section 2 of the CGST Act, 2017 defines the term Composite Supply and a reading of the definition of ‘Composite supply’ shows that there should be-
- Two or more taxable supplies of goods or services or both, or in combination thereof, which are naturally bundled and supplied in conjunction with each other In the ordinary course of business, one of which is a principal supply.

Hence, it is imperative that for a supply to a composite supply, such supply of goods and services are to be provided as a package and the different elements of the supply should be integral to the supply i.e if one or more element is removed, the nature of the supply would be affected.

3.12 As per CBIC's e-flier, 'Composite Supply' entails the concept of 'naturally bundled supply', and whether elements of the supply are bundled in the ordinary course of business would depend upon the normal or frequent practice followed in the area of business. It also says that in order to qualify for a composite supply one of the characteristic would be that 'none of the individual constituents of the supply are able to provide the essential character of the service.'

3.13 Applicant's contention that in the impugned situation the service is classifiable under Composite Service, is not tenable. A reading the entire contract between the applicant & ONGC Ltd. as well the definition of composite supply reveals that, the proposed supply is not a composite supply as the applicant had, before this agreement, used to only provide Engines of different specifications to ONGC without any other specific contract for repair and overhaul of their engines. Hence, the two elements of supply in the agreement i.e the supply of the parts while undertaking the repair or overhaul & supply of service of repair and overhaul of the engine both can have an independent characteristic of their own in the supply i.e there can be an agreement for only supply of parts as and when needed by ONGC for repair of their engine by other third party too. Hence, agreement for overhaul & repair of the engines does not constitute the "Composite supply".

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

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

3.16 From a reading of the said contract, it is evident that the applicant can supply these parts individually and also along with the package of the services too. Supply of parts and services are known and can be supplied individually to the customers, hence, these supplies fall under the services specified under Section 2(74) of the CGST Act, 2017 and they are chargeable to GST at applicable rates such as 12%, 18%, 28%, etc. whichever is higher.

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

04. HEARING

4.1 Preliminary e-hearing in the matter was held on 02.06.2021. Authorized Representatives of the applicant, Shri. Ranjeet Mahtani (learned C.A) and Shri Deepak Bahirwani, Director Taxation, were present. The Jurisdictional officer Shri. R. S. Shelkande Superintendent, Division V, Pune-II Commissionerate was also present. The Authorized Representatives made oral submission with respect to admission of their application.

4.2 The application was admitted and called for final e-hearing on 17.11.2021. The Authorized Representatives of the applicant, Shri. Ranjeet Mahtani, learned advocate, Shri. Ruturaj Bhide, learned advocate and Shri Deepak Bahirwani, learned Tax Director were present. The Jurisdictional officer was absent. Case was heard.

05. OBSERVATIONS AND FINDINGS:


5.1 We have perused the records on file, gone through the facts of the case, submissions made by the applicant as well as the department and have examined the matter in detail. During the course of final hearing, the applicant stated that, they want answer to only one question viz. **Whether parts of diesel marine engine or genset supplied or to be supplied by the Applicant to the Indian Navy are chargeable to 5% IGST or 2.5% CGST + 2.5% SGST as 'parts of heading of 8902, 8904, 8905, 8906 and 8907' in terms of Sr. No. 252 of Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017?** In other words, the applicant wants answer to the question regarding rate of tax on supply of goods ie when the goods are supplied as pure supply of goods and not coupled with service. The applicant referred to documents produced at Annexure B to Annexure F of the application, and referred to goods as mentioned therein. The applicant has produced the tender documents; Standard sourcing process; Purchase order raised by the customer i.e. Indian Navy; Chartered Engineer's certificate which specifies that the parts supplied by the Applicant to the Indian Navy are capable of being used as part of the ships or vessels and Declaration-Certificate from the Indian Navy certifying that goods supplied by the Applicant are for the exclusive use of the Indian Navy, and fall under entry at Sr. No. 252 of Notification No. 1/2017-C.T.(R), dated 28th June, 2017."

5.2 Thus, by mainly and only placing the reliance on these documents, the applicant argued the case during final hearing. Hence, present decision shall apply to the situation or transaction where the said transaction is supported by such documents or similar documents and not to the any other transaction. The present ruling shall not apply to transactions where the documents similar to described above are absent.

5.3 Applicant has stated that they supply parts of Marine Engines and Gensets to the Indian Navy for further application and use in manufacture of ships, vessels, boats etc. classifiable under Chapter 89 of the Customs Tariff Act, 1975. The supply of the subject goods, as per the applicant's submissions, in the subject case are specific to and tailor-made for this sector's usage. Applicant feels that the subject goods are parts of ships, boats, etc., hence, can be supplied in terms of Entry No. 252 of Schedule I of Notification No. 01/2017-C.T. (Rate).

5.3 The relevant schedule entry reads as under:

Sr. No. 252 of Notification No. 01/2017 – C.T (Rate) dated 28.06.2017 is as under :-



Schedule No.	Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods	CGST / SGST Rate	IGST Rate
	252	Any Chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907	2.5%	5%

5.4 From the above table it is very clear that parts of goods of headings 8901, 8902, 8904 to 8907 of any chapter are chargeable to CGST/SGST @ of 2.5% each. The Applicant has submitted that they supply parts of marine diesel engines and gensets to the Indian Navy, for application/ use in ships or vessels and the parts supplied by / to be supplied by the Applicant, includes numerous and diverse parts, intended for use in marine engines or gensets, of ships or vessels (of the Indian Navy) falling under Chapter No. 89 of Customs Tariff Act, 1975, typically under tariff heading number 8901,8902,8904,8905, 8906 and 8907.

5.5 In a recent ruling given by this very authority in the case of M/s MAN Energy Solutions India Private Limited (Order No.GST-ARA- 56/2019-20), it has been held that Marine Engines will be considered as parts of vessels falling under heading 8901, 8902, 8904 to 8907, only if they are used in manufacturing goods falling under Tariff Headings 8901, 8902, 8904 to 8907. Further in the same case it has also been held that parts of Marine Engines, falling under Chapter 8408/8409 of the GST Tariff would attract concessional rate of 5% GST as per Sr. No. 252 only if the said goods are supplied to/and used by companies manufacturing ships and other vessels



falling under Chapter headings 8901, 8902, 8904, 8905, 8906 and 8907. Thus, in the case of M/s Man Energy Solutions India Pvt. Ltd., we have held that Marine Engines and parts thereof are essential requirements in manufacture of ship, vessels, boats, floating structures etc., falling under Tariff headings 8901, 8902, 8904, 8905, 8906, 8907, and therefore the said goods can be considered as parts of ship, boat, vessels etc. and accordingly, the said goods would be covered under Sr. No.252 of the above mentioned Notification.

- 5.6 We have no reason to deviate from our earlier view taken in the case of M/s Man Energy Solutions India Pvt. Ltd. The relevant Entry No. 252 (cited supra) squarely applies to the impugned products of the applicant, which are supported by the documents as per Annexure B to Annexure F as described above only if they are supplied to the Indian Navy, for application/ use in ships or vessels. Hence, we accordingly hold that the said transaction is covered by the scope of Notification entry no. 252 as described above. However we once again reiterate that, the present decision shall apply to the situation or transaction where the said transaction is supported by such documents (submitted by the applicant) and similar documents and not to the any other transaction. The present ruling shall not apply to transactions where the documents similar to described above are absent.

In view of the above, we are not in agreement with the reply filed by the jurisdictional/concerned officer made vide submissions dated 27.05.2021. Further, the concerned jurisdiction officer has not rebutted the claim of the applicant, by filing point wise (or annexure/document wise) counter-reply in response to each of documents referred to and produced by the applicant from Annexure B to Annexure F. Also, the reply filed by the jurisdictional/concerned officer made vide submissions dated 09.07.2021 are not pertaining to the questions raised by the applicant which is exclusively connected to supply of goods to the Indian Navy.

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 question is answered thus –


- Question : -** Whether parts of diesel marine engine or genset supplied or to be supplied by the Applicant to the Indian Navy are chargeable to 5% IGST or 2.5% CGST + 2.5% SGST as 'parts of heading of 8902, 8904, 8905, 8906 and 8907' in terms of Sr. No. 252 of Notification No. 1/2017-Central Tax (Rate), dated 28 6-2017?



Answer: - Answered in the affirmative, only if they are used in diesel marine engine or genset which are further used in ships and vessels falling under chapter headings 8902, 8904, 8905, 8906 and 8907 of the GST Tariff.




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.