

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.	AD2703200195792
GSTIN Number, if any/ User-id	27AABCR1955P1ZV
Legal Name of Applicant	M/s Rochem Separation Systems India Private Limited
Registered Address/Address provided while obtaining user id	101, HDIL Towers, 1st floor, Anant Kanekar Marg, Bandra East, Mumbai Suburban, Maharashtra 400051
Details of application	GST-ARA, Application No. 21 Dated 13.07.2021
Concerned officer	MUM-VAT-E-634, LTU-3
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A	Category
B	Description (in brief)(As per applicant)
	Factory/Manufacturing
	M/s. Rochem Separation Systems (India) Pvt. Ltd., the applicant is registered with GST Department and engaged in supply of Reverse Osmosis Plant/System (RO Plant/System). The applicant has been supplying RO Plants/Systems to various buyers by charging GST at the rate of 18% (CGST @9% and SGST @9% and IGST @18% as the case may be).
Issue/s on which advance ruling required	<ul style="list-style-type: none"> Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 21/2021-22/B- 10

Mumbai, dt. 31/01/2022

PROCEEDINGS

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

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by **M/s ROCHEM SEPARATION SYSTEMS INDIA PRIVATE LIMITED**, the applicant, seeking an advance ruling in respect of the following question.

- 1. What is applicable rate of GST on supply of Reverse Osmosis Plant/system (RO Plant/system) to Indian Navy/Indian Coast Guard in normal course?**
- 2. What is the applicable rate of GST on supply of RO Plant/system (Reverse Osmosis Plant) to the Indian Navy/Coast Guard which would be installed in/on a warship?**

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same

provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT FACTS

- 2.1 M/s Rochem Separation Systems India Private Limited, the applicant received an order from Controller Procurement Material Organization (Vizag) Kancharapalem (Post), Eastern Naval Command, Visakhapatnam-530008 ('buyer') for supply of RO Plant/Water Purification System.
- 2.2 The applicant is engaged in supply of Reverse Osmosis Plant (RO Plant/System) classified under Chapter Heading 8421 as per GST Tariff. The applicant has been supplying the subject goods to various buyers by charging GST @ 18%. The applicant has been informed by the Indian Naval Department that, GST should be charged @ 5% in respect of supply of RO Plant/system to be installed in warship, in view of Notification No.01/2017 dated 28.06.2017 (S. No. 250 & 252).

B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

- 2.3 Relevant portion of Notification No. 01/2017 – CTR dated 28.06.2017 is reproduced as under –
"G.S.R. (E). - In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of the central tax of-

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv), (v), and (vi)

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, falling under the tariff item, sub-heading, heading or chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules.

Schedule I – 2.5%

Sr. No. 250 and 252 of Schedule I of Notification No.01/20-17-C.T. (R) dated 28.06.2017 reads as under:

Sr. No.	Chapter/Heading/Sub-heading/ Tariff item	Description of Goods
250	8906	Other vessels, including warships and lifeboats other than rowing boats
252	Any Chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907

Schedule III – 9%

Sr. No.	Chapter/Heading/Sub-heading/Tariff item	Description of Goods
322	8421	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases



2.4 From the above, it is apparent that S. No. 250 is pertaining to vessels including warship and lifeboats other than rowing boats classified under CTH 8906 and S. No.252 covers parts of goods of Heading 8901, 8902, 8904, 8905, 8906 and 8907. RO Plant/system, by no stretch of imagination, can be categorized under entry 250. The applicant's understanding is that RO Plant/System to be supplied to the Indian Navy/Naval department cannot be treated as part of warship as anything and everything installed on the warship cannot be treated as part of the warship. If everything on board a ship, even if it is required for its operation, be treated as part of it, then petrol and oil in a car and fodder in a cart would have to be treated as part of the respective vehicles but this cannot be a tenable proposition.

2.5 The R.O. Plant/system is to be installed on warship for the purpose of purifying water. It does not contribute in functionality of the warship. Merely because RO Plant is installed in the warship, it does not become part of it. As per the applicant, the goods (i.e, RO Plant/system) supplied by it falls under S. No. 322 of Schedule III of Notification No.01/2017-CTR dated 28.06.2017 attracting 18% CGST, which the applicant has already been charging accordingly.

2.6 APPLICANT SUBMISSION DATED 04.01.2022:

TECHNICAL NOTE WATER USAGE / REQUIREMENTS ON SHIPS

The ships require the following types of waters for use during its operations at high seas / passages

1. Boiler quality water (Ultra high quality water) for use in boilers which produce steam for running of steam turbines which are used for ships propulsion.
2. Technical quality water (Superior quality water to be used for machinery (Like turbine washing / engine cooling, which are predominantly ships Propulsion systems)
3. Drinking / Potable water for human consumption by the personnel onboard and also for other uses like cooking in Kitchens / Galleys / Washing machines etc.)

2.7.1 Rochem RO Plants are used in various applications as listed out above either for singular use or multiple uses as required onboard the ship. Hence apart from the basic solution of provision of drinking / potable water, these RO Plants purify the sea water and make it suitable for use effectively for various propulsion packages of ships.

2.7.2 Reference can be drawn to the Wikipedia where it can be noticed that it is clearly mentioned that "RO plants help in removing minerals from boiler water in power plants" The sea water salinity is removed many times over so that it does not cause any residues or any deposits on the machine which lead to corrosion. The high quality / purity water obtained from a two stage or three stage Membrane RO plant makes the saline water – boiler feed quality / high grade water. The function of a boiler on a ship is to produce steam to run the steam turbine which is the propulsion of the ship and facilitates the ships movement – effectively in the absence of boiler feed quality water the movement of the ship itself would be impacted.

03. CONTENTION – AS PER THE CONCERNED OFFICER:

Officer Submission dated 30.11.2021:-

- 3.2 On perusal of invoices, it is apparent that the Applicant has been supplying RO Plant/Water Purification Systems and its parts and also doing its maintenance. It is further observed that the invoices have been issued by charging GST @ 18% in normal course.
- 3.3 Applicant submitted Copy of purchase order/work order, Acceptance of purchase order/work order, Invoice & delivery challan and Specific user certificate/completion certificate which are verified & kept on record.
- 3.4 RO Plant /Vessel cannot be categorized under entry 250 of schedule I of Notification no. 01/2017-Central Tax (Rate) Dated 28.06.2017. Further, the R.O. system cannot be considered as part of warship. R.O. plant/system is installed on warship is for purification of water. Warship means a ship equipped with weapons and designed to take part in warfare at sea. R.O Plant/system cannot be considered as a part of warship. As per the GST registration details of applicants, the R.O. Plant/System supplied by them fall under S. No. 322 of schedule III of Notification no. 01/2017-Central Tax-Rate Dtd. 28.06.2017 attracting applicable rate of CGST at the rate of 9% & SGST at the rate of 9%.

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 26.10.2021. The Authorized representative of the applicant, Shri. Atul Mishra, learned CA and Shri. Prashant Shrivastava, learned Advocate were present. The Jurisdictional officer Shri. Rajesh Sangale, learned Deputy Commissioner, MUM-VAT-E-634, LTU-3 was also present.
- 4.2 The application was admitted and called for final e-hearing on 23.11.2021. The Authorized representative of the applicant, Shri. Atul Mishra, learned CA and Shri. Prashant Shrivastava, learned Advocate were present. The Jurisdictional officer Shri. Rajesh Sangale, learned Deputy Commissioner, MUM-VAT-E-634, LTU-3 was also present. The case was heard.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have gone through the facts of the case, perused the documents on record, and considered the oral/written submissions made by both, the applicant as well as the jurisdictional/concerned officer.
- 5.2 We find that the applicant is engaged in supply of Reverse Osmosis Plant (RO Plant/System) classified under Chapter Heading 8421 as per GST Tariff. The applicant has been supplying the goods (RO Plant/System) to various buyers by charging GST at the rate of 18% and has been discharging GST liability accordingly, thereon.
- 5.3 The questions raised before this Authority is with respect to the applicable rate of GST on supply of Reverse Osmosis Plant/system (RO Plant/system) to Indian Navy/Indian Coast Guard in normal course and when the said goods are supplied to the Indian Navy/Coast Guard to be installed in/on a warship.
- 5.4.1 The first question raised is: "What is applicable rate of GST on supply of Reverse Osmosis Plant/system (RO Plant/system) to Indian Navy/Indian Coast Guard in normal course?"
- 5.4.2 We observe that the said question is pertaining specifically to supply of the impugned goods. In other words, the issue before us is a supply of goods only. The applicant is of the opinion that

the impugned goods are classified under HSN 8421 of the GST Tariff and we also agree with the said opinion of the applicant.

- 5.4.3 The relevant Schedule III (where the GST rate is 18%), of Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017 is reproduced as under:-

Schedule III – 9%

Sr. No.	Chapter/Heading/Sub-heading/ Tariff item	Description of Goods
322	8421	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases

- 5.4.4 Thus, from the above we observe that, the impugned product classified under C.H. 8421 of the GST Tariff attracts 18% GST.

- 5.5.1 The second question raised by the applicant is: "What is applicable rate of GST on supply of Reverse Osmosis Plant/system (RO Plant/system) to Indian Navy/Indian Coast Guard to be installed in/on a warship.

- 5.5.2 The second question has been raised by the applicant only because they have received a communication dated 23.10.2019 from the Indian Naval Department wherein it has been stated that GST should be charged at the rate of 5% in respect of supply of RO Plant/system to be made to them, which is to be installed in warship, in view of Sr. No. 252 of Notification No.01/2017 dated 28.06.2017.

- 5.5.3 From the submissions made by the applicant we find that the applicant itself is convinced that the said Sr. No. 252, with respect to concessional rate of GST is not applicable in the subject case. However since the question has been raised by the applicant we discuss the issue as under:

- 5.5.4 Sr. No. 252 mentioned above gives the benefit of reduced rate of GST to goods falling under any Chapter of the GST Tariff only if they are used as 'Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907'.

- 5.5.5 To deal with the limited issue before us i.e. to find out whether the impugned goods supplied by the applicant are parts of a ship first of all we need to examine as to what are "Parts". We find that the word "Part/Parts" has not been defined in GST nor was it defined in Central Excise earlier. In view of this first we are required to understand the general meaning of the word 'Part/Parts' which is of relevance to us in the present case.

-----We find that as per Cambridge English Dictionary:

Part as a noun – *a separate piece of something or a piece that combines with other pieces to form the whole of something*

-----*One of the pieces that together form a machine or some type of equipment.*

It has other meanings also in other context which are not of relevance in present context like:

----*a single broadcast of a series of television or radio programme or Division of a story.*

----one of two or more equal or almost equal measures of something etc.

5.5.6 Thus in view of the above meanings/definitions of "parts", we will be required to examine as to what are the parts of Goods of CTH 8901, 8902, 8904, 8905, 8906 and 8907 and whether the subject goods can be considered as Parts for being covered under Sr. No. 252 of Notification no. 1/2017.

5.5.7 A ship consists of many components viz. Anchor, Bow, Bowsprit, Fore and Aft, Hull, Keel, Mast, Rigging, Rudder, Sails, Shrouds, Engines, gearbox, Propeller, Bridge, Walkie-talkie, Binoculars, Life Jackets, Lifeboats, furniture, etc.

5.5.8 We find that items like Anchor, Bow, Bowsprit, Fore and Aft, Hull, Keel, Mast, Rigging, Rudder, Sails, Shrouds, Engines, gearbox, Propeller, Bridge, etc. are the very essential parts of a ship or vessel and are quite clearly parts of a vessel/ship and a ship cannot be imagined to be in existence without these parts. Without these parts, a ship cannot be functional at all.

However, in addition to the above there are some additional equipment that are required to be made available on a ship as a measure of statutory compliances under various marine acts such as Merchant Shipping Act or Additional Safety measures such as Walkie-talkie, Binoculars, Life Jackets, Lifeboats, etc. Though these are also to be compulsorily made available on a vessel and ship but cannot be taken to be parts of a ship as per general understanding but are rather additional equipment/accessories on a ship.

In addition to the above there are few other items like furniture, fans, air-conditioners, television, etc which are also very essential for comfort of officers and crew of the ship but do not come under essential parts or equipments of a vessel/ship.

We find that the items that are discussed as essential parts of a ship/vessel are such essential components of a vessel/ship without which the ship would not be complete and would not exist. These are very integral for the functioning of the ship and can also be separated from the ship for repair/replacement. When we refer to the definition of the word 'part' as discussed in detail above, we find that 'part' is a separate piece of something or a piece that combines with other pieces to form the whole of something.

Similarly the second definition of part also defines 'part' as one of the pieces that together form a machine or some type of equipment.

5.5.10 While interpreting the issues like the one at hand, we may refer to certain judgements which throw light on the issue.

In case of Saraswati Sugar Mills Vs Commissioner of Central Excise Civil Appeal No.5295 of 2003 decided on 2nd Aug 2011 Hon. Supreme Court of India observed:

12. In order to determine whether a particular article is a component part of another article, the correct test would be to look both at the article which is said to be component part and the completed article and then come to a conclusion whether the first article is a component part of the whole or not. One must first look at the article itself and consider what its uses are and whether its only use or its primary or ordinary use is as the component part of another article. There cannot possibly be any serious dispute that in common parlance, components are items or parts which are used in the manufacture of the final product and without which, final product cannot be conceived of.



13. The meaning of the expression 'component' in common parlance is that 'component part of an article is an integral part necessary to the constitution of the whole article and without it, the article will not be complete'.

14. This Court, in *Star Paper Mills (supra)* has made a settled distinction while considering whether paper cores are 'components' in the manufacture of paper rolls and manufacture of paper sheets. It is stated that 'paper cores' are component parts in so far as manufacture of roll is concerned, but it is not 'component part' in the manufacture of sheets. It is useful to quote the observations made by this Court :

"Paper core would also be constituent part of paper and would thus fall within the term "component parts" used in the Notification in so far as manufacture of paper in rolls is concerned. Paper core, however, cannot be said to be used in the manufacture of paper in sheets as component part.

15. In *Modi Rubber Ltd. v. Union of India*, (1997) 7 SCC 13, the appellant had set up tyre and tube manufacturing plant and imported various plants and machineries. While using the plants and machineries, PPLF (Polypropylene Liner Fabric) was used as a device in the form of liner components to various machinery units to protect the rubber-coated tyre fabric from atmospheric moisture and dust. This Court held that the PPLF was not a component of the machine itself. It was not a constituent part. It was used as a Liner Fabric not only in tyre production but also in similar other industrial processes.

In case of Jindal Strips Vs Collector of Customs, Equivalent citations: 1997 ECR 98 Tri Delhi, 1997 (94) ELT 234 Tri Del. the Two Member Bench of the Tribunal referred the appeal before the larger bench on the following questions:

(i) Whether the phrase "component parts" occurring in Notification 77/90 would cover "spare parts" for the purpose of granting of benefit thereunder?

The larger Bench of the Tribunal having regards to dictionary meaning of "part", and "Component" observed that in common parlance meaning of the expression "component" is also the same, that is, one of the parts or elements of which anything is made up or into which it may be resolved or a Constituent. The meaning in common parlance has to be looked into since the notification itself does not contain any definition of the expression.

In the State Of Uttar Pradesh vs M/S. Kores (India) Ltd on 18 October, 1976, Equivalent citations: 1977 AIR 132, 1977 SCR (1) 837.

In this case the appellant contended before the Hon SC that carbon paper does not lose its character as paper in spite of being subjected to chemical processes, and that ribbon is not an accessory but an essential part of the typewriter. While dismissing the appeal Court held that "A word which is not defined in an enactment has to be understood in its popular and commercial sense with reference to the context in which it occurs. It has to be understood according to the well-established canon of construction in the sense in which persons dealing in and using the article understand it."

The Hon.SC further observed that "Bearing in mind the ratio of the above mentioned decisions, it is quite clear that the mere fact that the word 'paper' forms part of the denomination of a specialized article is not decisive of the question whether the article is paper as generally understood. 'the word 'paper' in the common parlance or in the commercial sense means paper



which is used for printing, writing or packing purposes. We are, therefore, clear of opinion that Carbon paper is not paper as envisaged by entry 2 of the aforesaid Notification. Regarding ribbon also to which the above mentioned rule construction equally applies, we have no manner of doubt that it is an accessory and not a part of the typewriter (unlike spool) though it may not be possible to use the latter without the former. Just as aviation petrol is not a part of the aeroplane nor diesel is a part of a bus in the same way, ribbon is not a part of the typewriter though it may not be possible to type out any matter without it.

The very same question with which we are here confronted came up for decision before the High Court of Mysore in State of Mysore v. Kores (India) Ltd (26STC 87). (1) where it was held:

"Whether a typewriter ribbon is a part of a typewriter is to be considered in the light of what is meant by a typewriter in the commercial sense. Typewriters are being sold in the market without the typewriter ribbons and therefore typewriter ribbon is not an essential part of a typewriter so as to attract tax as per entry 18 of the Second Schedule to the Mysore Sales Tax Act, 1957."

- 5.5.11 In light of the above discussions, considering the meaning of an expression (Part) as given in the dictionary and also the ratio as adopted by the Hon'ble Courts as mentioned above besides common parlance tests we now take up the issue as to whether the impugned goods can be considered to be parts of a ship.
- 5.5.12 The classification of goods under Sr. No. 252 depends solely on the nature of use to which the goods are put to. The impugned goods have the function of purifying water. It is not the case that the ship cannot sail without the impugned goods. The applicant has not produced any evidence to show that the impugned goods are so essential that the ships cannot sail without the same. In other words nothing has been brought on record by the applicant to show that the impugned goods can be considered as parts of ships/vessels falling under C.H. 8901, 8902, 8904, 8905, 8906 and 8907 of the GST Tariff as mentioned in Sr. No. 252 of Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017, in as much as the absence of the said goods affects the functionality of the ships. In fact the applicant has strongly submitted that the said concessional rate is not applicable to the impugned goods supplied by them to the Indian Navy/Indian Coast Guard and have gone ahead to state that the subject goods are covered under C.H. 8421 and attract 18% GST in view of Sr.No. 322 to Schedule III of Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017.
- 5.5.13 The impugned goods, being in the nature of additional equipment used in ships and not parts of ship cannot be considered for concessional rate of GST as parts of a ship in view of our discussions above.
- 5.5.14 We have also considered the fact that fresh water is very essential necessity for the members/crew of the vessels in terms of drinking water, water for cooking, etc. especially when the ship is out for a long haul but such essential necessity of the impugned equipment is for the crew/members and not for the ship as a whole. Any ship can just sail without have the impugned equipment on board and therefore the impugned goods cannot be considered as parts of a ship and therefore, the subject supply of impugned goods cannot be given the benefit of concessional rate of GST as per Sr. No. 252 of Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017.



5.6 We observe that, even the applicant is convinced that the impugned goods cannot be covered under Sr. No. 252 of Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017 as can be seen from its submissions which are reproduced as under:-

"The applicant's understanding is that RO Plant/System to be supplied to the Indian Navy/Naval department cannot be treated as part of warship as anything and everything installed on the warship cannot be blanketly said as part of the warship. If everything on board a ship, even if it is required for its operation, be treated as part of it, then petrol and oil in a car and fodder in a cart would have to be treated as part of the respective vehicles but this cannot be a tenable proposition.

The R.O. Plant/system is to be installed on warship for the purpose of purifying water. It does not contribute in functionality of the warship. Merely because RO Plant is installed in the warship, it does not become part of it. As per the applicant, the goods (i.e, RO Plant/system) supplied by it falls under S. No. 322 of Schedule III of Notification No.01/2017-CTR dated 28.06.2017 attracting 18% CGST, which the applicant has already been charging accordingly".

5.7 We find that after the final hearing which was held in the subject case on 23.11.2021, the applicant made further submissions on 04.01.2022 and later on vide email dated 10.01.2022 requested that they may be allowed to voluntarily withdraw their subject application filed on 13.07.2021. At this stage, after the final hearing has been conducted and concluded we find that the request of the applicant for withdrawal of their subject application cannot be acceded to. We, therefore, in view of the above detailed discussions are of the opinion that an order is required to be passed in the subject case.

Hence, in view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

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

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

Question 1: What is applicable rate of GST on supply of Reverse Osmosis Plant/system (RO Plant/system) to Indian Navy/Indian Coast Guard in normal course?

Answer: - In view of the discussions made above, the applicable rate of GST is 18%.

Question 2: What is the applicable rate of GST on supply of RO Plant/system (Reverse Osmosis Plant) to the Indian Navy/Coast Guard which would be installed in/on a warship?

Answer: - In view of the discussions made above and in the absence of specific exemption, the applicable rate of GST is 18%.




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.

