

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

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

**BEFORE THE BENCH OF**

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

(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id		271800000639ARD (user id) 27AAMCA4160E1ZT (GSTIN)
Legal Name of Applicant		A S Moloobhoy Private Limited
Registered Address/ Address provided while obtaining user id		MBPT Plot-58, Anchor House, 1st Magazine Cross Street, Darukhana, Mumbai City, Maharashtra, 400010
Details of application		GST-ARA, Application No. 14 Dated 20.04.2018
Concerned officer		MUM-VAT-E-827 , Nodal Division 4, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	<b>Wholesale Business , Service provision</b>
B	Description (in brief)	The company is engaged in the business of sale and distribution of Marine Distress Signals, EPIRB and SART, SSAS, Marine Chemicals, Navigation and Communication (NAVCOM) Equipment and also providing Life Saving services: such as Life raft, Lifeboat and Fire-fighting services, including Pyrotechnic Disposal, Electronic Services and Training Services related to the Marine Industry.
Issue/s on which advance ruling required		(i) classification of goods and/or services or both (v) 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.



**PROCEEDINGS**

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

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by A S Moloobhoy Private Limited , the applicant, seeking an advance ruling in respect of the following question.

The Applicant requests this Hon'ble Authority to decide as to whether the supply of goods [as listed in Annexure I-A of this ARA application] is classifiable as "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 897" under entry 252 of Schedule 1 of GST Notification No. 01/2017-Central tax (rate) dated 28<sup>th</sup> June, 2017 as amended and liable to GST @ 5% (CGST-2.5% and SGST-2.5%) or IGST @ 5% or not.

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

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

The submission (Brief facts of the case), as reproduced verbatim, could be seen thus -

STATEMENT OF THE RELEVANT FACTS HAVING A BEARING ON THE QUESTION(S) ON WHICH THE ADVANCE RULING IS SOUGHT

1. This Application is being filed by **A. S. Moloobhoy Private Limited** ('the Applicant'/the Company'). The Applicant, having Good and Service Tax ('GST') Registration No. 27AAMCA4160E1ZT is inter alia engaged in the business of sale and distribution of Marine Distress Signals, EPIRB and SART, SSAS, Marine Chemicals, Navigation and Communication (NAVCOM) Equipment and also providing Life Saving services: such as Life raft, Lifeboat and Fire-fighting services, including Pyrotechnic Disposal, Electronic Services and Training Services related to the Marine Industry.
2. Applicant imports various goods/spares, which are supplied on ships and these equipment form an essential part of the ship, and *makes the ship "sea worthy."*
3. The above referred goods are imported by the applicant on payment of IGST. The detailed list of HSN codes of such imported goods along with the applicable tax rates is attached herewith at Annexure I-A. The sample copies of illustrative Bill Of Entry for such imports are enclosed at Annexure I-B, I-C, I-D, I-E, I-F & I-G.
4. Applicant levies GST on parts/equipment supplied by it on the ship by classifying it under the same tariff head under which the goods are imported. The applicant discharges GST liability on supply based on rates applicable to such tariff entry. For instance, a "Standard Solas Model" is classified under tariff head of "8479" captioned as "Ship Spares" and is therefore taxed at the rate of 18%.  
Applicant has been receiving the purchase orders for such parts/spares/equipment from reputed customers wherein orders are placed on specific terms that applicable GST rate on items ordered is 5% as all such parts and equipment ordered are forming part of ship. The customers strongly contend that the relevant tax entry for taxing such goods is Sr.No.252 of Notification No.1/2017 Central Tax which specifically covers Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907. There has been e mail exchange from reputed customer on this point. The copy of relevant purchase orders and emails are enclosed at Annexure I-H, I-I, I-J, I-K & I-L.  
Based on the information from customers and market trend, applicant also feels that GST rate should be 5% on the goods supplied by it as same are essential part of ship which makes the ship seaworthy. It is legally obligatory for ships to have fitment/installation of all such spares and equipment to qualify as seaworthy. These parts/equipment should therefore be classified under the tariff heading of "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907."
  - Heading 8901 is for cruise ships, excursion boats, ferry boats, cargo ships, barges and similar vessels for transport of persons or goods.
  - Heading 8902 applies to fishing vessels, factory ships, other vessels, etc.
  - Heading 8904 is for tugs and pusher crafts.
  - Heading 8905 covers Light vessels, fire floats, dredgers and other vessels.
  - Heading 8906 and 8907 is for other vessels and floating structures.Applicant reiterates that goods supplied by it, are of critical nature, without which the ship would not be permitted to sail and therefore such equipment or parts thereof should be classified as "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907" and should be taxed at the rate of 5%, as such individual goods are supplied as a part of the ship or vessel, to ensure that the ship is sea worthy. Such goods cannot be classified as spares separately in their own right.
7. Applicant is becoming non-competitive in the market if it does not classify the spares/equipment/parts under entry no. 252 of Notification No.1/2017 Central Tax which specifically covers Parts of goods of various types of the ships and vessels covered under headings 8901, 8902, 8904, 8905, 8906, 8907.
8. In view of the above the issue for determination before the Authority for Advance Ruling ('AAR') is whether supply of such goods (as listed in Annexure III) is classifiable as "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907" under entry 252 of Schedule 1 of CGST Notification No. 01/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017 (Amended from time to time) and liable to GST @ 5% (CGST-2.5% and SGST- 2.5%) or IGST- 5% as specified in entry 252 of schedule 1 of Notification No. 01/2017-Integrated Tax (Rate),dated 28-06-2017.



9. The list of goods/spares/parts/equipment (which are installed or fitted on the ships) for which the advance ruling is sought as to classification of such goods is enclosed herewith at Annexure- I-A.

STATEMENT CONTAINING THE APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAY BE, IN RESPECT OF THE QUESTION(S) ON WHICH THE ADVANCE RULING IS SOUGHT

### 1. ISSUE FOR DETERMINATION

- 1.1. The questions/ issues before Your Honor for determination is whether supply of goods (as listed in Annexure I-A) is classifiable as "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907" under entry 252 of Schedule 1 of CGST Notification No. 01/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017 (Amended from time to time) and liable to GST @ 5% (CGST-2.5% and SGST- 2.5%) or IGST-5% as specified in entry 252 of schedule 1 of Notification No. 01/2017-Integrated Tax (Rate),dated 28-06-2017.
- 1.2. The questions / issues placed for determination before Your Honor have to be appreciated in light of the following position of law and its applicability to the proposed activity undertaken by the Applicant, discussed hereunder.

### 2. SUBMISSIONS OF THE APPLICANT

#### SUBMISSION 1

- 2.1. Applicant submits that they are selling equipment and parts/spares of critical nature and are mandated by IMO (International Maritime Organization), which are essential to establish the sea worthiness of a ship and therefore cannot be simply regarded as "spares" or "equipment."
- 2.2. The goods sold by them should be classified as parts of the ship and should be taxed accordingly at 5% and not at the higher rate of 18%/28% which is applicable to spares or equipment.

#### SUBMISSION 2

- 2.3. Notification 01/2017 -CGST dated 27<sup>th</sup> June, 2017 states that the "classification of goods should be as per the rules of classification enshrined in the Customs Act, 1962."
- 2.4. Relevant portion of Rule 3(a) of the customs valuation rules reads as under:  
"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:  
The heading which provides the most specific description shall be preferred to headings providing a more general description."

As stated above, the goods being imported are necessarily parts of the ship, in view of their compulsory requirement as per IMO; to establish the ship as sea worthy, and not spares per se.

The meaning of the term "spares" referred above, incorporates a wide ambit of products and therefore would lead to a generic classification of goods.

- 2.6. On the other hand the classification of the same; as parts of the ship, would be more specific and could be attributed as the products relevant to a particular industry; namely the shipping industry and would therefore provide clarity in identifying the same.

#### SUBMISSION 3

- 2.7. The appellant strongly relies on the decision of the Honorable Supreme Court in its own case i.e. Commissioner of Customs, Mumbai Appellant(s) VERSUS M/s. A.S. Moloobhoy & Sons & Ors. Respondent(s) WITH CIVIL APPEAL NOS. 3115-3117 OF 2015, where the Honorable Court declined to interfere with the order passed by the Tribunal, wherein it was held that these imports of equipment and spares should be treated as one for "the purpose of ship repair."  
The copy of the relevant Tribunal judgment and Supreme Court judgment are enclosed at Annexure II-A & II-B.

- 2.8. Annexed please find a copy of the SRU (Ship Repair Unit) registration of the Company.  
This further endorses the fact that the said equipment/spares being imported by the Applicant is for the purpose of repair/replacement of goods on board a vessel, so as to ensure that the ship as a whole is sea worthy as per IMO Regulations.

### 3. PRAYER

In light of the above, a Ruling is sought from the Honorable Authority on classification of goods listed in Annexure III and applicable GST rate on such goods.

#### Additional submissions on 27/07/2018

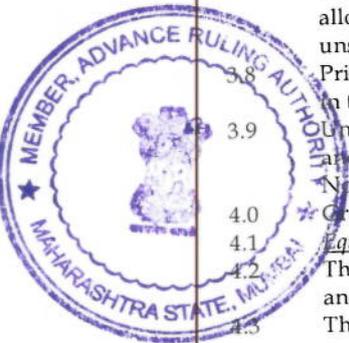
We, M/s. A.S. Moloobhoy Pvt. Ltd. (hereinafter referred to as the Applicants) refer to their application for Advance Ruling.

2. The issue on which ruling is sought for from the Authority for Advance Ruling is as to whether parts of Marine Distress Signals, Emergency Position Indicating Radio Beacon (EPIRB) and Search and Rescue Transponder, (SART), Ship Security Alert System (SSAS), Navigation and Communication (NAVCOM) Equipment related to the Marine Industry, as detailed in Annexure-1-A, are covered under Sr.No.252 of Schedule 1 of Notn.No. 1/2017-Central Tax (Rate) and Notn.No.1/2017-Integrated Tax (Rate) both dated 28.06.2017 and chargeable to GST @ 5%.

- 3.0 The facts, succinctly, stated are as under:

- 3.1 The Applicants are registered with Directorate General of Shipping (DGS), Govt of India as "Ship Repairing Unit (SRU)" vide Registration No. DGS/ENGG/REG-0000174 dated 25.04.2014.

- 3.2 The Applicants are engaged in repairs of ships. The goods under consideration consist of components of Global Maritime Distress and Safety Systems (GMDSS) and of emergency position indicating radio beacon (EPIRB).
- 3.3 Since Govt. of India is a signatory to the International Convention for the Safety of Life at sea, Govt. has framed the Merchant Shipping (Distress and Safety Radio Communication) Rules, 1995, in exercise of its powers under Section 290 of the Merchant Shipping Act, 1958. The said Convention requires that all commercial ships over 300 tons are fitted and comply with the requirement of the Global Maritime Distress and Safety System, 1999 (GMDSS). Accordingly, the Central Government in exercise of its power in Section 296 of the Merchant Shipping Act, 1958 and the Merchant Shipping (Distress and Safety Radio Communication) Rules, 1995 has made these Rules which would apply to all sea going passenger, cargo and fishing boats of 20 mtrs. or more than length and all ships other than Indian ships more than 300 tons while they are in any port or place in sea. The Rules require all existing ships comply part I of the Rules on or before 1st February, 1995. Various dates on which these Rules will come into force in parts are mentioned, and but compliance is required on or before 1-2-99 in all cases. The said rules requires inter alia that every ship or fishing boat should carry two satellite EPIRB, Navtex receiver radio facility of Maritime safety information by the INMARSAT, enhanced group calling (EGC) system of HF Direct printing telegraphy, etc.
- 3.4 For undertaking the repair of the ship, over and above rendering of repair service, the Applicants also are required to supply various parts of various equipment in ship viz. Navigation equipment and spares, communication equipment and spares, lifesaving/firefighting equipment and spares, etc. which are listed in their application as Annexure 1-A (504 Items). For brevity, the said items under consideration are referred to as "Navigation/communication/ lifesaving/firefighting equipment and their associates spares".
- 3.5 The Applicants import the said Navigation equipment, communication equipment, lifesaving equipment, firefighting equipment and their associates spares on payment of applicable import duties and the same are supplied on ship.
- 3.6 The said equipment are integral part of a ship without which ship cannot sail or be considered seaworthy as per the IMO/SOLAS/ guidelines.
- 3.7 Needless to say that the ship being built at any shipyard must include these equipment and its associated spares to construct a sea worthy vessel. The consequence or failure to comply with the Merchant Shipping (Distress and Safety Radio Communication) Rules, 1995 would lead to declining to renew the certificate of seaworthiness, issued to the ships under the Merchant Shipping Act, 1958 and the vessel could not have been allowed to sail. By the operation of the Rules of 1995, the vessel which is not fitted with this equipment became unseaworthy and also would be unlawful to ply.
- 3.8 Prior to 1.7.2017, in pre-GST era, central excise duty was not applicable as the Applicants being dealers and in that VAT was payable.
- 3.9 Under the said factual position, the present application is filed with a prayer for ruling on the said equipment and spares of availability of concessional rate of GST of 5% (2.5% + 2.5%) under Sr. No.252 of list 1 of Notn.No.1/2017-Central Tax (Rate)/Integrated Tax (Rate).
- 4.0 Grounds before Appellate Authority:
- 4.1 Equipment form an essential part of the ship:
- 4.2 The Applicants imports goods under consideration which are supplied on ships and these equipment form an essential part of the ship and makes the ship "sea worthy".
- 4.3 The said equipment are integral part of a ship without which ship cannot sail or be considered seaworthy as per the IMO/SOLAS/ guidelines.
- 4.4 Every ship being built at any shipyard must include the goods under consideration to construct a sea worthy vessel.
- 4.5 The Applicants submit that they are selling equipment and parts/spares of critical nature and are mandated by International Maritime Organization (IMO), which are essential to establish the sea worthiness of a ship.
- 4.6 As stated above, the goods being imported are necessarily parts of the ship, in view of their compulsory requirement as per IMO, to establish the ship as sea worthy.
- 4.7 The Applicants further submit that Ship Repairing Unit (SRU) Registration No.DGS/ENGG/REG-0000174 dated 25.04.2014 endorses the fact that the said equipment/spares being imported by the Applicants is for the purpose of repair/replacement of goods on board a vessel, so as to ensure that the ship as a whole is sea worthy as per IMO Regulation.
- 5.0 Support of judgments in Applicants own case/other's case under Customs:
- 5.1 Notn.No.23/98-Cus dated 2.6.1998 and succeeding Notifications including 21/2002-Cus dated 1.3.2002 (Sr. No. 251) was prescribing Nil rate of duty (both standard rate and additional duty rate) to capital goods and spares thereof, raw-materials, parts, material handling equipment and consumable used for repair of ocean-going vessel by Ship Repair Unit registered with DGS.
- 5.2 The notice was issued to the importer-Applicants proposing to deny the exemption under the said Notification on the basis that the goods were not covered by any of the category of item specified in the entry to the exemption. It further alleged that the goods were not used for repair because the ships were fully functional and would not be part of repair.
- 5.3 By Order-in-Original No. CAO/68/20027CAC/CC/ASS dated 18.02.2002, Ld. Commissioner of Customs, Mumbai denied exemption under Notification 23/98-Cus (Sr. No.227).
- 5.4 Since aggrieved an appeal was filed before Hon'ble CESTAT.



- 5.5 Hon'ble Tribunal vide its order dated 1.7.2003 [2003 (162) ELT 196 (T)] held that the said satellite emergency indicating radio beacons and enhance group calling systems of high frequency printing telegraphy fitted to ship to meet requirement of Merchant Shipping (Distress and Safety Radio Communication) Rules, 1995. Fitting of these equipment to ship to make them sea worthy amounted to its repair and were covered under entry 227 of Notn.No.23/98-Cus.
- 5.6 Dept. appeal against the said Tribunal order has been dismissed by Hon'ble Supreme Court vide its judgment dated 26.3.2015 reported in 2015 (319) ELT 576 (SC).
- 5.7 The ratio of the said judgment of Tribunal, upheld by Hon'ble Supreme Court, would squarely support the Applicants contention that the equipment and parts thereof, under consideration, are integral part of a ship.
- 5.8 Following the ratio of the said judgment in Applicants case, the Tribunal in Chidambaram Ship Care Pvt. Ltd. [2005 (191) ELT 697 (T)] has held that Ship spares for repair of ocean-going vessel like 'Global Marine Distress Safety System' equipment imported and used to upgrade old radio communication/navigation equipment in ships were necessary for safety of ocean-going vessels in voyages and further Fitment of safety equipment to ships for making vessel seaworthy amounts to 'repair' of ship for purpose of S. No. 227 of Notification No. 23/98-Cus.
- 5.9 Again in Applicants own case, Tribunal vide its judgment dated 23.08.2011 [2012 (276) ELT 399 (Tri-Mum)] had held that Handset imported for replacement of defective handset of communication system of ocean going vessel would be entitled for benefit of Notification No. 21/2002-Cus (Sr. No.351).
- 6.0 **Squarely covered by Sr.No.252 of list 1 of Notn.No. 1/2017-Central Tax (Rate) dated 28.06.2017:**
- 6.1 The Entry No.252 of Notn.NO.1/2017-Central Tax (Rate) dated 28.06.2017 is as reproduced below:

"S. No	Chapter/ heading/Tariff Item	Heading/ Sub-	Description of Goods
(1)	(2)	(3)	(3)
XXX	XXXX		XXXXXX
52.	Any chapter		Parts of goods of headings 8901, 8902,8904, 8905, 8906, 8907
XXX	XXX		XXXXXX"

From the above it is clear that parts of ships, vessels, tugs, floating structure, etc. mentioned in headings of chapter 89, except heading 8903, irrespective of their classification, would be eligible for concessional rate of GST of 5%. The Notification, like statute, has to be interpreted in terms of its language adopted and when language is plain and clear effect thereof has to be given. It is also settled position of law that plain terms of exemption have to be given effect without calling in aid of any supposed intention, and a casus omissus cannot be provided by interpretation.

- 6.3 In support of the above contention that plain interpretation has to be adopted while interpreting an exemption Notification, reliance is placed on the ratio of following judgments:

- Malwa Industries - 2009 (235) ELT 214 (SC)
- Mewar Bartan Nirman Udyog - 2008 (231) ELT 27 (SC)
- Parle Biscuits - 2005 (192) ELT 23 (SC)
- Bombay Oil Industries - 1997 (91) ELT 538 (SC)

- 7.0 **Section/Chapter Notes and/or Explanatory Notes to HSN are for classification and not for interpreting exemption Notn.:**

- 7.1 HSN, Explanatory Notes, Rules of Interpretation, etc. cannot be used to interpret the exemption notification and further exemption notification to be strictly interpreted in accordance with words of notification thereunder and the intention thereof.

- 7.2 The above view gets substantiated from the ratio of following judgments:

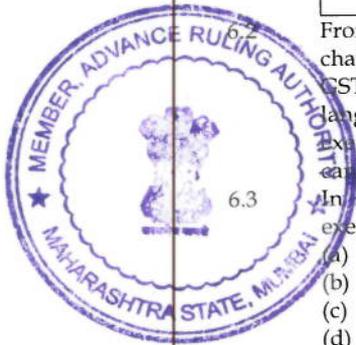
- Gujarat Ambuja - 216 (338) ELT 481 (SC)
- Winter Misra Diamond Tools - 1996 (83) ELT 670 (T)
- do- Upheld by Supreme Court - 1997 (94) ELT A-52 (SC)
- Set Telecommunication - 2003 (161) ELT 1105 (T)

- 8.0 ***Issue no more res-integra - order of AAR Kerala:***

- 8.1 M/s. Saraswati Metal Industries had approached Authority for Advance Ruling, Kerala praying for ruling for similar goods under the very same notification under consideration in the present case, Hon'ble AAR Kerala, vide its order No. CT/5496/18-C3 dated 29.05.2018 [2018-TIOL-46-AARGST], had held that commodities such as marine propellers, rudder set, stern tube set, propeller shaft and M.S.Shaft for couplings are mainly used as a part of fishing/floating vessels and the same would be covered under Entry 252 of Schedule 1 of Notn.Non. 1/2017-CT(R) and taxable @ 5% [CGST + SGST]

- 9.0 **Goods under consideration are Integral parts of ships - Chartered Engineers Certificate:**

- 9.1 Shri Ravi Krishnamurthy, Chartered Engineer, vide his certificate dated 10.06.2018, has certified that Navigation equipment and their associated spares, communication equipment and their associated spares, lifesaving/firefighting equipment and their associated spares, etc., detailed therein, are integral part of a ship without which ship cannot sail and would not be considered seaworthy as per the IMO/SOLAS/guidelines.



It is further certified that every ship being built at any shipyard must include these equipment and its associated spares to construct a sea worthy vessel.

- 9.2 The said certificate would substantiate that the goods under consideration mentioned at Annexure-1-A to application are parts of goods of heading 8901, 8902, 8904, 8905, 8906 and 8907.
- 10.0 The provisions of Merchant Shipping (Distress & Safety Radio Communication) Rules, 1995 would support that the goods under consideration are parts of ship and hence, would be covered under Sr. No.252 of list 1 of Notn. 1/2017-Central Tax (Rate)/Integrated Tax (Rate)
11. With the above submissions and those made in their application and additional submissions, it is humbly prayed for holding that the disputed equipment would be covered under Entry No. 252 of Notn.No.1/2017Central Tax (Rate) and are entitled for concessional rate of tax.
03. **CONTENTION - AS PER THE CONCERNED OFFICER**

The submission, as reproduced verbatim, could be seen thus-

The notice under Advance ruling provision was issued to the this office as the dealer, M/s. A.S. MOLOOBHAY GSIN:- 27AAMCA4160E1ZT, Who is assigned to this office under case allocation, has applied for advance ruling under section 97 of CGST/MGST Act, 2017. The dealer has mentioned its nature of activity as factory/ manufacturing & in brief it says "Sale and distribution of marine Distress Signals, EPIRB and SART, SSAS, Marine Chemicals, Navigation and communication (NAVCOM) equipment and also providing lifesaving services such as life raft, lifeboat and firefighting services, including Pyrotechnic Disposal, Electronic services and training services related to the marine industry.

Dealer has requested In Annexure I that a ruling be pronounced under section 97(2) a of the CGST Act 2017 on the following questions:

a) Whether marine distress signals, EPIRB, SART, SSAS, marine chemicals, navigation and communication equipment life raft, lifeboat, firefighting services, pyrotechnic disposal, electronic services and training services related to marine industry supplied by the applicant, would be considered to be part of ship and accordingly be then classified under SI no. 252 of Schedule I of Notification No 1/2017 of Central Tax (rates) dated June 28,2017

Also, as per the notice following details were asked by the Advance Ruling Authority:

- 1) Registration No, of Central Excise or Service Tax or both as applicable.
- 2) Period of Registration in case of Para (1) above.
- 3) Registration Address for Central Excise or Service Tax or both as applicable,
- 4) (a) Classification of Goods and their Central Excise Tariff Heading.  
(b) Rate of Central Excise duty as applicable.  
(c) Details of benefit of notification of Central Excise if any availed.  
(a) Classification of Service/Services as applicable.  
(b) Rate/Rates of Service/Services as provided.  
(c) Details of benefits of Notification of Service Tax if any availed
- 6) Copies of Advance Ruling Applicable /orders if any obtained by applicant under the provision of Central Excise, Service Tax and Sales Tax and their present status in case of your company/related company or sister concern.
- 7) Copy of Show Cause. Notices/ Adjudication orders in respect of Central Excise or Service Tax if any issued during Last Five years, in case of Your Company I Related Company or sister concern.
- 8) **Case of violation of Central Excise/Service Tax if any booked during Last Five years.**  
Whether any proceeding is pending before any authority on said subject matter or otherwise.  
**As asked in notice please find information given below:**
- 1) Applicant was only registered under service tax No. AAMCA4160E dt. 04/03/2014.
- 2) Registered address of dealer for service tax is as under:  
B-501, 5th floor, Marathon Futurex,  
Mafatal Mills, N. M. Joshi Marg,  
Lower Parel, Mumbai, 400013.
- 3) Registered address of Service Tax Office:  
Mumbai Central-New, Division-III, Range I,  
Primal Chambers, Jijibhoy Lane,  
Lalbhaug, Parel, Mumbai-400012.
- 4) Classification of Services provided by the applicant under service tax is as under:

Table-1

Sr. NO.	Services provided by Applicant	Accounting Code	Service Tax Rate (Basic+SBC+KKC)	Benefit of any notification claimed
1	Technical Inspection and certification Agency Services	00440249	15%	N. A.
2	Maintenance & Repairs Services	00440245	15%	Exemption was claimed under clause 25 (b) of Notification 25/2012 ST dated 20/06/2012 for services provided to Govt., a Local authority or a Govt.

				authority by way of repair or maintenance of vessel.
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- 5) Assessee have not applied for any advance ruling under the provision of central excise, service tax or sales tax.
- 6) As per applicant there is no case of violation of central excise or service tax.
- 7) As per applicant there is no any case of violation of central excise or service tax has been booked against the applicant in last five years.

Applicant is dealing in import of various goods which are supplied on ships. Goods are imported by applicant on payment of IGST. As per the Bill of Entry submitted by applicant it is observed that while importing he has paid the IGST @ rate of 18 and 28%.

In GST there is separate entry of goods imported and, supplied by registered person but dealer is requesting to classify these goods as part of ship. When there is specific entry for any commodity the said commodity cannot be classified in another way. Therefore the dealers request cannot be accepted.

The List of HSN codes of such imported goods is as below.

**Table-2**

Sr. NO.	HSN code	Description of goods	Rate of tax
	8529	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528	18%
	9014	Direction finding compasses; other navigational instruments and appliances	18%
	8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	18%
	8479	Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter	18%
	6307	Other made up articles, including dress patterns	5 & 12%
	8525	Transmission apparatus for radio broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders	12, 18 & 28%
	8544	Insulated (including enamelled or anodised) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	18%



#### **04. HEARING**

The case was taken up for preliminary hearing on dt. 13.06.2018, with respect to admission or rejection of the application when Ms. Nafeesa Moloobhoy, M.D., along with Sh. Rajkumar Sarawagi, C.A., G.M. appeared and requested for admission of application as per their submissions with ARA. The Jurisdictional officer Deepak Gadhave, Dy. Commissioner of S.T.(MUM-VAT-E-827), Nodal - 4, Mumbai appeared and stated that he does not have any objection to admission of application and would making submissions in due course.

The application was admitted and final hearing was held on 17.07.2018, Ms. Nafeesa Maloobhoy, M.D., along with Sh. Rajkumar Sarawagi, C.A., G.M. appeared and made oral and written submissions in addition to the details as per their application. The Jurisdictional officer Deepak Gadhave, Dy. Commissioner of S.T.(MUM-VAT-E-827), Nodal - 4, Mumbai appeared and made written submissions.

05. OBSERVATIONS

We have perused the records on file and gone through the facts of the case and the submissions made by the applicant and the department.

10. We find that the applicant has submitted that they are engaged in the business of sale and distribution of Marine Distress Signals, EPIRB and SART, SSAS, Marine Chemicals, Navigation and Communication (NAVCOM) Equipment, Life raft, Lifeboat and Fire-fighting services, including Pyrotechnic Disposal, Electronic Services and Training Services related to the Marine Industry. They are importing the various goods/spares, which are supplied by them on ships. As per their submissions such equipments are an essential part of a ship, and makes the ship sea worthy.

The only issue that is raised before us by the applicant is whether the said parts/spares/equipments which are used on a ship are forming parts of the ship and therefore chargeable to reduced tax @ 5% under Sr.No.252 of Notification No.1/2017 Central Tax (Rate) dated 28.06.2017.

To deal with the limited issue before us i.e. to find out whether the goods/spares used 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.*

-----Further, we also find the definition of 'Spare Part' as per Wikipedia

*A spare part, spare, service part, repair part or replacement part is an interchangeable part that is kept in an inventory and used for the repair or replacement of failed units. Spare parts are an important feature of Logistics Engineering and Supply Chain Management.*

Thus in view of the above meanings/definitions of part/parts/Spare Part, 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/spares as mentioned by the applicant listed in Annexure I-A of this ARA application can be taken to be covered within the meaning of Parts for Sr. No. 252 of Notification no. 1/2017 Integrated Tax (Rate) dated 28.06.2017.

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.

However, in addition to the above there are some additional equipments 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 equipments on a ship..

In addition to the above there are other essential items like furniture, fans, air-conditioners, television, etc which are 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.

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

In case of *Saraswati Sugar Mills Vs Commissioner of Central Excise Civil Appeal No.5295 of 2003* decided on 2<sup>nd</sup> 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 appellants 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 aero- plane 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."

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 test, we now take up each and every goods/spares, etc claimed by the applicant to be parts of a

ship [as listed in Annexure I-A of this ARA application and as reproduced by them mentioning their uses in page no 24 of their compilation A made before this authority as an additional submission] and discuss and find out whether each of the subject goods/spares can be considered as parts of ship. They have broadly listed the equipments/parts of the equipments along with their usage which is as follows:-

Sr. No.	EQUIPMENT	FULL FORM	DESCRIPTION	REMARKS
A	GPS	Global Positioning System	Used for establishing ship's latitude and longitude	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
B	ECHO SOUNDER	Echo Sounder	Used to find depth under the sea	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
C	RADAR	Radio Detecting and Ranging	Used to detect objects at sea	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
D	ECDIS	Electronic Charts Display & Information System	Used to show locations for navigation	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
E	GYRO	Gyroscope	Used for navigation	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
F	AIS	Automatic Identification System	Used for identifying other ships details	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
G	DS	Doppler Speed Log	Used to measure ships speed through water	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
H	MF/HF	Medium/High Frequency Communication	Used for long range communication	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
I	VHF	Very High frequency	Used for short range speed communication	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
J	SAT-C/FBB	Satellite Communication/Fleet Broad band	Used for communication between ship and shore	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
K	SSAS	Ship Security Alert System	Used for transmitting distress signal to land station	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions



L	NAVTEX	Navigational Telex	Used for receiving navigational weather and other warnings	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
M	EPIRB	Emergency Positioning Indicating radio Beacon	Used to alert search and rescue services in case of distress/emergencies	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
N	VDR	Voyage Data Recorder	Used for recording and analysing data of the ship	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
O	NDB	Non Directional Beacon	Used for choppers to determine landing location on board	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
P	FCV	Fish Finder	Used for higher level accuracy and clear fish shoal images	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
Q	SONAR	Sound Navigation and Ranging	Used for searching underwater fishing	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
R	LSA/FF	Life saving/ Fire Fighting Appliances	Used for safety of crew, vessel and passengers	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
S	BANWA	Bridge Navigation Watch Alarm System	The bridge is manned at sea during voyage, else alarm is issued by the unit for safety of ship	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship as per above discussions
T	SART	Search and Rescue Transponder	Used to assist Coast Guard in search and rescue operations	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
U	ANEMO METER	Anemometer	Used to calculate speed and direction of wind	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions
V	2 WAY RT	Walkie talkie	Used for internal communication by the ship's staff	Would be in the nature of an additional equipment and therefore cannot be considered as parts of a ship as per above discussions

The classification of goods under Sr. No. 252 depends solely on the nature of use to which the goods are put to. We find from the above table that the items mentioned at Sr.Nos A, B, C, D, E, G, H, I, J, K, M and S are essential parts of a ship/vessel without which the ship would not be complete and would not exist. These are very integral for the functioning of the ship. Hence out of the 504 goods mentioned in [Annexure I-A of this ARA application and reproduced by them mentioning their uses in page nos 24 to 39 of their compilation A made before this authority as an additional submission] we are of the opinion that out of the 504 items mentioned by them, only goods used in the equipments mentioned at Sr. Nos. A, B, C, D, E, G, H, I, J, K, M and S of the above table can be considered as parts of a ship and therefore would be eligible to concessional rate of GST as contended by the applicant. Parts which are used in equipments

mentioned in Sr. Nos F, L, N, O, P, Q, R, T, U, V will not be eligible for concessional rate of duty since the said equipments cannot be considered as essential parts of a ship in view of our discussions above.

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-14/2018-19/B- 71 Mumbai, dt. 18/07/2018

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

**Question :-** Whether the supply of goods [as listed in Annexure I-A of this ARA application] is classifiable as "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 897" under entry 252 of Schedule 1 of CST Notification No. 01/2017-Central tax (rate) dated 28<sup>th</sup> June, 2017 as amended and liable to GST @ 5% (CGST-2.5% and SGST-2.5%) or IGST @ 5% or not.

**Answer :-** In view of the discussions in the 'Observations' section out of the goods listed in Annexure I-A, only those goods that are used in equipments mentioned at Sr.Nos A, B, C, D, E, G, H, I, K, M and S of the table will liable to GST @ 5% (CGST-2.5% and SGST-2.5%) or IGST @ 5% under entry 252 of Schedule 1 of CST Notification No. 01/2017-Central tax (rate) dated 28<sup>th</sup> June, 2017 as amended and schedule 1 of Notification No. 01/2017-Integrated Tax (Rate), dated 28-06-2017 as amended.



  
B. V. BORHADE  
(MEMBER)

  
PANKAJ KUMAR  
(MEMBER)

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State tax , Mahavikas for Website.

**CERTIFIED TRUE COPY**

  
**MEMBER**  
ADVANCE RULING AUTHORITY  
MAHARASHTRA STATE, MUMBAI

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