

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 8th floor, H-Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)
BEFORE THE BENCH OF

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

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

GSTIN Number, if any/ User-id		27AAGCA7184G1ZH
Legal Name of Applicant		A Raymond Fasteners India Pvt. Ltd
Registered Address/ Address provided while obtaining user id		Gate No. 259, 276/ 8B, Nighoje Chakan, Taluka - Khed, Pune- 410 501.
Details of application		GST-ARA, Application No. 91 Dated 19.11.2018
Concerned officer		Addl. Commr. CGST-I, Pune Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Factory/Manufacturing , Wholesale Business, Warehouse/Deport
B	Description (in brief)	The Applicant is engaged in the manufacture of, amongst others, industrial clip fasteners and prototyping assembly systems, which are primarily used in automobiles. Import of certain products for manufacturing industrial clip fasteners and prototyping assembly systems, which are used in automobiles.
Issue/s on which advance ruling required		(i) classification of goods and/or services or both
Question(s) on which advance ruling required		As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

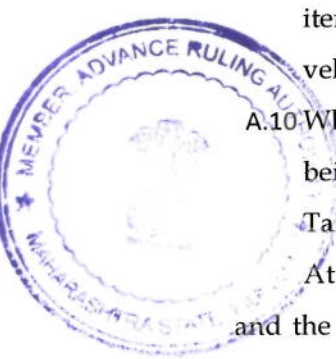
(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by M/s **A Raymond Fasteners India Pvt. Ltd**, the applicant, seeking an advance ruling in respect of the following questions.

- A.1 Whether Threaded metal nuts which function same as standard nut, merits classification under the Tariff item 7318 16 00 and not under Tariff item 8708 99 00?
- A.2 Whether Plastic rivets not only being capable of being used in the fitment of trims on the body of a motor vehicle but in other industries for similar functionality, merits classification under Tariff item 3926 90 99 and not under Tariff item 8708 99 00?
- A.3 Whether Quick Adapter not only capable of being used to connect pipes and tubes in the interior of a motor vehicle, but also for similar functionality in other industries,

merit classification under the Tariff item 3917 40 00 and not under Tariff item 8708 99 00?

- A.4 Whether Plastic pipe clips merits classification under the Tariff item 3926 90 99 and not under the Tariff item 8708 99 00?
- A.5 Whether Brackets and Channels merits classification under Tariff item 8708 99 00 despite being "parts of general use" made of plastic, and not under Chapter 39 of the First Schedule?
- A.6 Whether Non-Return Valve merits classification under Tariff item 8481 30 00 as it is capable of being used in the internal liquid lines of various machineries and equipment, and not under Tariff item 8708 99 00?
- A.7 Whether Metal U Clips merits classification under the Tariff item 8305 90 20 as it is not only capable of being used in the interior or exterior of a motor vehicle to join panels but in other machineries and equipment, and not under the Tariff entry 8708 99 00?
- A.8 Whether Fasteners and Spoilers merits classification under Tariff item 8708 29 00 which pertains to parts and accessories of the body of a motor vehicle and thus provides the more specific description of the Fasteners and Spoilers, in comparison to Tariff entry 8708 99 00, which pertains to the residual entry under Heading 8708?
- A.9 Whether Bracket merits classification under Tariff item 8708 99 00 and not under Tariff item 8708 29 00, which pertains to a part or accessory found on the exterior of a motor vehicle.
- A.10 Whether the Subject Product merits classification under Tariff item 7220 20 90 despite being capable of being classified under Chapter 87 of the First Schedule, and not under Tariff item 8708 99 00.



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.

02 FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, verbatim, made by the applicant could be seen thus-

- "1. **A Raymond Fasteners India Pvt. Ltd.** (hereinafter referred to as "**the Applicant**") is involved in the developing and manufacturing of various types of fasteners and other accessories for a variety of industries ranging from automotive, trucks, energy sector, agriculture, pharmaceutical sector. Its registered office is in Gat No.259,276/8B,Nighoje-Chakan, Taluka-Khed, Pune - 410501.

2. The Applicant has its production plant in Pune (Chakan) and is engaged in the manufacture of, amongst others, industrial clip fasteners and prototyping assembly systems, which are primarily used in automobiles.
3. The procurement structure followed by the Applicant chiefly involves importation of various products (inputs and packaging materials) from various sources/ nations, which are then used in the manufacture and subsequent sale of final products.
4. Some product families are also imported and traded by the Applicant.
5. Products are imported by the Applicant as inputs for manufacturing or as final products for trading (collectively referred to as “**the Products**”) and are to be classified in terms of the Customs Tariff Act, 1975 (“**CTA**”) and Notification No. 1/2017 – Integrated Tax (Rate) dated 28th June, 2017 (“**Classification Notification** for payment of applicable Customs duty and Integrated Goods and Services Tax (“**IGST**”) which is payable as duties of Customs in terms of the CTA.
6. In this regard, provision which are relevant and may have a bearing for classification of the Products in terms of the CTA and the Classification Notification should be appreciated and understood in the context of these facts and commercial circumstances to enable a considered conclusion under the GST regime and law.

Relevant legal provisions of the Goods and Services Tax

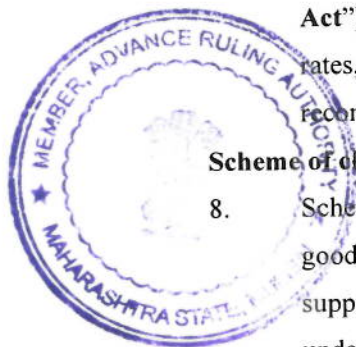
7. In terms of Section 5(1) of the IGST 2017, IGST is to be levied on all inter-State supplies of goods and services, on the value determined under Section 15 of the CGST Act, 2017 (“**CGST Act**”). Further, Section 5(1) also provides that IGST will be levied on goods & services at such rates, not exceeding forty per cent, as may be notified by the Government on the recommendations of the GST Council.

Scheme of classification

8. Scheme of classification of goods is provided in the Classification Notification which classifies goods into Chapter, Section, Heading and Groups and also provides description of the goods and supports in determining the nature of goods and rate of GST payable *qua* the goods classified under each head.
9. It is relevant to note that Explanation (iii) and (iv) of the Classification Notification establishes a link between the Classification Notification and CTA. The relevant part of the Classification Notification is extracted below:

“(iii) “Tariff item”, “sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, subheading, heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

“(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.”
10. In terms of the Classification Notification, classification of goods in the GST regime ought to be done in tandem with the CTA, and the rules for interpretation of the First Schedule of the CTA,



along with the Section Notes, Chapter Notes and General Explanatory Notes would also be applicable to classification of goods post the introduction of GST.

Relevant legal provisions of the Customs Tariff Act, 1975

11. Section XVII of the First Schedule of the CTA ("**First Schedule**") provides for classification of goods which form parts of motor vehicles and the products in question were classified under this section in the pre-GST regime.
12. To ascertain the classification of products in question, it is pertinent to refer to the Section Notes provided in Section XVII of the First Schedule.
13. The relevant Section Notes are extracted as follows:

1. Section XVII

"Section Note 2

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

...

(b) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);

...

(c) Articles of Chapter 82 (tools);

...

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

Section Note 3

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

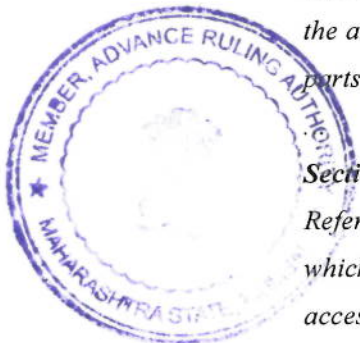
ii. Section XV

"Section Note 2

Throughout this Schedule, the expression "parts of general use" means:

- (a) articles of heading 7307, 7312, 7315, 7317 or 7318 and similar articles of other base metal;*
- (b) springs and leaves for springs, of base metal, other than clock or watch springs (heading 9114); and*
- (c) articles of headings 8301, 8302, 8308, 8310 and frames and mirrors, of base metal, of heading 8306.*

In Chapters 73 to 76 and 78 to 82 (but not in heading 7315) references to parts of goods do not include references to parts of general use as defined above.



Subject to the preceding paragraph and to Note 1 to Chapter 83, the articles of Chapter 82 or 83 are excluded from Chapters 72 to 76 and 78 to 81."

General Rules for interpretation of the Harmonized System ("General Rules for Interpretation")

14. To determine the correct classification of a product, it is also necessary to take into consideration the General Rules for Interpretation in addition to the Section Notes and Chapter Notes of First Schedule. Rule 3(a) of the General Rules for interpretation is relevant for the purpose of this application and is extracted as follows:

"Rule 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 headings each 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, 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."

Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the question

A. Metal Nuts with Metrical Thread, Metal Nuts without Metrical Thread and Metal Spring Nuts

Nature of the product

1. The subject products are types of threaded nuts made of sheet metal ("**Threaded Metal Nuts**"). Though the name suggests that 'Metal Nuts without Metrical Thread' are non-threaded metal nuts, in actuality such nuts are threaded in nature, only difference being they are not threaded with metrical thread. Threaded Metal Nuts are essentially similar to standard nuts and may be used in the interior or exterior of a motor vehicle. Usage of Threaded Metal Nuts is not limited to automotive sector and they can also be used in other sectors. An image of Threaded Metal Nuts is enclosed herein & marked as **Exb. A**.

Classification of the product

Threaded Metal Nuts should be classified under Chapter 73 of the First Schedule:

2. Threaded Metal Nuts by their very description merit classification under Chapter 73 of the First Schedule, which pertains to "Articles of iron or steel". Under Chapter 73, the relevant heading for the classification of Threaded Metal Nuts is Heading 7318, and the specific Tariff item is 7318 16 00, which is extracted as follows:

<i>Tariff Item</i>	<i>Description of goods</i>
7318	<i>Screw, bolts, nuts, coach-screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel</i>
...	<i>-Threaded articles:</i>
....	<i>- ...</i>
7318 16 00	<i>- Nuts</i>

71
3.

The fact that Metal Spring Nuts are made of corrosion resistant metals has no impact on their classification under the Tariff item 7318 16 00.

Threaded Metal Nuts should not be classified under Chapter 87 of the First Schedule:

4. In the pre-GST regime, Threaded Metal Nuts were classified under Chapter 87 of the First Schedule which pertains to “*Vehicles other than railway or tramway rolling-stock*” and more specifically, under the Heading 8708 and Tariff item 8708 99 00.

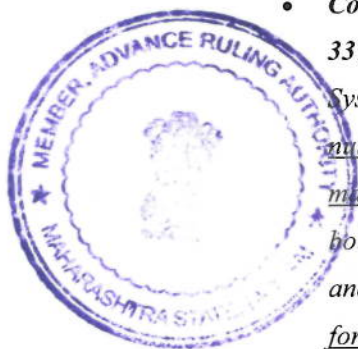
5. On a perusal of the Section Note 2(b) of Chapter XVII of the First Schedule of the CTA, it is understood that the expressions “parts” and “parts and accessories” do not apply to “parts of general use” defined in Section Note 2 of Section XV of the First Schedule. In terms of Section Note 2(a) of Section XV of the CTA, products classifiable under Heading 7318 tantamount to “parts of general use” and are therefore disqualified from being classified under Section XVII, which pertains to Chapter 87. This is also corroborated by the Explanatory Note to Heading 7318 of the Harmonised System of Nomenclature (“**HSN Explanatory Notes**”) which is reproduced below:

“Bolts and nuts (including bolt ends), screw studs and other screws for metal, whether or not threaded or tapped, screws for wood and coach-screws are threaded (in the finished state) and are used to assemble or fasten goods so that they can readily be disassembled without damage.

*.....
Nuts are metal pieces designed to hold the corresponding bolts in place. They are usually tapped throughout but are sometimes blind. The heading includes wing nuts, butterfly nuts, etc. Lock nuts (usually thinner and castellated) are sometimes used with bolts.”*

6. In this context, it is also relevant to take into consideration the following decisions of the Hon’ble Tribunal:

- *Commissioner of C. Ex., Bombay-I vs. Automatic Engineering Works [2001 (130) E.L.T. 331 (Tri. - Mumbai)]*, wherein it was held that, “The Explanatory Notes to the Harmonised System of Nomenclature on which the tariff is based repeatedly make it clear that the *bolts, nuts etc. are to be considered to be parts of general use notwithstanding that they have been manufactured for use in a particular machine.* The note at page 973 for example, say that bolts, nuts specialised for central heating radiator would be classifiable under 73.18 of bolts and not as parts of central heating radiators. A similar view is expressed for spring specialised for motor cars. The only exception is provided in page 1029 of the Explanatory Notes under heading 73.18, which covers screws, bolts, etc. That is threaded mechanisms, sometimes called screws, used to transmit motion, or otherwise to act as an active part of a machine. There is no material in the appeal to say that any of the goods that have been manufactured by the respondent specified this criterion. We therefore see no reason to interfere with the classification of the Collector (Appeals).”
- *Spire India vs Commissioner of Central Excise, Mumbai [2006 (200) E.L.T. 539 (Tri. - Mumbai)]*, wherein it was held that, “We find that the lower authorities have rightly relied upon Section Note 1(9) to Section XVI, Note 2 to Section XVII and Note 2 to Section XV of the

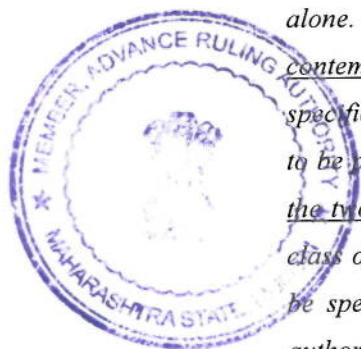


Central Excise Tariff Act, 1985 to hold that the items are parts of general use and excluded from Section XVII (under which Chapter 87 falls). Since Chapter Heading 73.18 specifically covers nuts and washers, it has been rightly held that their end use is irrelevant."

7. Therefore, in terms of Section Note 2(b) of Section XVII read with Section Note 2(a) of Section XV, the correct manner of classification of Threaded Metal Nuts is under Chapter 73 and more specifically under the Tariff item 7318 16 00.
8. It is also pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.
9. Reliance in this regard can be placed on the decision of the Hon'ble Supreme Court in the case **Moorco (India) Ltd. vs Collector of Customs, Madras ("Moorco Case")** held that it is a settled principal in law that for classification of goods (or services), it is always the most specific entry which is required to be preferred over an entry which provides a more general description. This ratio has been consistently followed in matters of classification under the Customs and the Central Excise law; the relevant extract from **Moorco Case** is reproduced here:

"4.....The applicability of the rule arises when the goods consisting of more than one material fall in two or more headings. It is further clear that each of the classes are mutually exclusive. What is covered in (a) cannot be classified in (b) and (c) operates when neither applies. It is like a residuary clause. The primary question, therefore, is whether the goods manufactured by the appellant fall in clause (a) as if it can be classified with reference to (a) then clauses (b) and (c) would not apply. Clause (a) incorporates the common and general principle that the goods which can be classified specifically with reference to any heading should be placed in that category alone. The specific heading of classification has to be preferred over general heading. The clause contemplates goods which may be satisfying more than one description. Or it may be satisfying specific and general description. In either situation the classification which is the most specific has to be preferred over the one which is not specific or is general in nature. In other words, between the two competing entries the one most nearer to the description should be preferred. Where the class of goods manufactured by an assessee falls say in more than one heading one of which may be specific, other more specific, third most specific and fourth general. The rule requires the authorities to classify the goods in the heading which satisfies most specific description"

10. This settled principle of law has been subsequently upheld in the decisions of **ETA General Pvt. Ltd. v. Commissioner of Customs, Chennai-II [2016 (341) E.L.T. 140 (Tri. - Chennai)]** and **Advanced Spectra Tek Pvt. Ltd. v. CC(ACC & Import), Mumbai [2017 (354) E.L.T. 286 (Tri. - Mumbai)]**.
11. Therefore, it is adequate to conclude that in case of a product classifiable under two or more headings, the one nearer to the actual description of the product should be preferred.
12. In view of all the foregoing, it can be concluded that Threaded Metal Nuts merit classification under the Tariff item 7318 16 00 despite being capable of being used in the exterior or interior of a



motor vehicle and not under Tariff item 8708 99 00, since its function is the same as that of a standard nut.

B. Plastic Rivets

Nature of the product

1. The subject product is a type of nut made of plastic with circular grooves around it (“**Plastic Rivets**”) and is generally used in the fitment of trims on the body of a motor vehicle. The primary function of Plastic Rivets is to join fitments. Rivets can be used in other industries as well. An image of Plastic Rivets is enclosed herein and marked as **Exhibit B**.

Classification of the product

Plastic Rivets should be classified under Chapter 39 of the First Schedule:

2. Plastic Rivets merit classification under Chapter 39 of the First Schedule, which pertains to “Plastics and articles thereof”. Under Chapter 39, the relevant heading for the classification of Plastic Rivets is Heading 3926, and the specific Tariff item is 3926 90 99, which is extracted as follows:

<i>Tariff Item</i>	<i>Description of goods</i>
3926	<i>Other articles of plastics and articles of other materials of headings 3901 to 3914</i>
...	- <i>Other:</i>
...	- ...
...	- <i>Other:</i>
3926 90 99	- ...
	---- Other

3. In this context, it is necessary to refer to the Explanatory Notes to Heading 3926 of the HSN Explanatory Notes, which is reproduced below:

“This heading covers articles not elsewhere specified or included, of plastics (as defined in Note 1 to the Chapter) or of other materials of headings 39.01 to 39.14.

....
(6) *Screws, bolts, washers and similar fittings of general use.”*

Plastic Rivets should not be classified under Chapter 87 of the First Schedule:

4. In the pre-GST regime, the Plastic Rivets were classified under Chapter 87 of the First Schedule which pertains to “*Vehicles other than railway or tramway rolling-stock*” and more specifically, under the Heading 8708 and tariff item 8708 99 00.

5. On a perusal of the Section Note 2(b) of Chapter XVII of the First Schedule of the CTA, it is understood that the expressions “parts” and “parts & accessories” do not apply to “parts of general use” defined in Section Note 2 of Section XV of the First Schedule of the CTA, or similar goods of plastic under Chapter 39. Since Plastic Rivets are essentially nuts made of plastic, it can be considered to be a “similar good of plastic” in terms of Section Note 2(b) of Section XVII, and would thereby attract classification under the Tariff item 3926 90 99.

6. It is also pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.



7. Reliance in this regard can also be placed on the decision of the Hon'ble Supreme Court in the **Moorco Case mentioned above**. This settled principle of law has been subsequently upheld in the decisions of *ETA General Pvt. Ltd. v. Commissioner of Customs, Chennai-II* [2016 (341) E.L.T. 140 (Tri. - Chennai)] and *Advanced Spectra Tek Pvt. Ltd. v. CC(ACC & Import), Mumbai* [2017 (354) E.L.T. 286 (Tri. - Mumbai)].
8. In view of all the foregoing, it can be concluded that Plastic Rivets merit classification under Tariff item 3926 90 99 as not only being capable of being used in the fitment of trims on the body of a motor vehicle but in other industries for similar functionality.

C. Adaptor for plastic pipe

Nature of the product

1. The subject product is a type of Quick Connector made of plastic ("**Quick Connector**") and can be used to connect pipes or tubes in the interior of a motor vehicle and for the purpose of internal fluid handling. Quick Connectors can be used in other industries too. An image of Quick Connector is enclosed herein and marked as **Exhibit C**.

Classification of the product

Quick Connectors should be classified under Chapter 39 of the First Schedule:

2. Quick Connectors merit classification under Chapter 39 of the First Schedule, which pertains to "Plastics and articles thereof". Since Quick Connectors are used to connect pipe or tubes, it comes within the ambit of the Heading 3917 "Tubes, pipes and hoses, and fittings thereof (for example, joints, elbows, flanges), of plastics". Therefore, Quick Connectors merit classification under the Heading 3917 and more specifically under Tariff item 3917 40 00.
3. In this context, it is necessary to refer to the Explanatory Notes to Heading 3917 of HSN Explanatory Notes, which is reproduced below:

"This heading also includes fittings of plastics for tubes, pipes and hoses (for example, joints, elbows, flanges)."

Quick Connectors should not be classified under Chapter 87 of the First Schedule:

4. In the pre-GST regime, Quick Connectors were classified under Chapter 87 of the First Schedule of CTA which pertains to "*Vehicles other than railway or tramway rolling-stock*" and more specifically, under the Heading 8708 and Tariff item 8708 99 00.
5. On a perusal of the Section Note 2(b) of Chapter XVII of the First Schedule of the CTA, it is understood that the expressions "parts" and "parts and accessories" do not apply to "parts of general use" defined in Section Note 2 of Section XV of the First Schedule, or similar goods of plastic under Chapter 39. Since Quick Connectors attract classification under the Heading 3917, it is excluded from being covered within the expressions "parts" and "parts and accessories" found in Section XVII of First Schedule of the CTA, which encompasses Chapter 87 in its ambit, by virtue of Section Note 2(b).
6. Therefore, in terms of Section Note 2(b) of Section XVII, the correct manner of classification of Quick Connectors is under Chapter S H 3917 40 00.



7. It is also pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.
8. Reliance in this regard can also be placed on the decision of the Hon'ble Supreme Court in the **Moorco Case mentioned above**. This settled principle of law has been subsequently upheld in the decisions of *ETA General Pvt. Ltd. v. Commissioner of Customs, Chennai-II [2016 (341) E.L.T. 140 (Tri. - Chennai)]* and *Advanced Spectra Tek Pvt. Ltd. v. CC(ACC & Import), Mumbai [2017 (354) E.L.T. 286 (Tri. - Mumbai)]*.
9. In view of all the foregoing, it can be concluded that Quick Connectors merit classification under the Tariff item 3917 40 00.

D. Plastic Pipe Clips

Nature of the product

1. The subject product is a type of circular clip made of plastic ("**Plastic Pipe Clips**") and can be used to harness wires or cables in the engine area of a motor vehicle. An image of Plastic Pipe Clips is enclosed herein and marked as **Exhibit D**.

Classification of the product

Plastic Pipe Clips should be classified under Chapter 39 of the First Schedule:

2. Plastic Pipe Clips by its description merits classification under Chapter 39 of the First Schedule, which pertains to "Plastics and articles thereof". Under Chapter 39, the relevant heading for the classification of Plastic Pipe Clips is Heading 3926, and the specific Tariff item is 3926 90 99 considering the nature of the product. *Plastic Pipe Clips should not be classified under Chapter 87 of the First Schedule:*

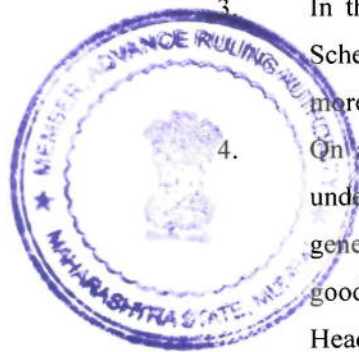
3. In the pre-GST regime, the Plastic Pipe Clips were classified under Chapter 87 of the First Schedule of CTA which pertains to "*Vehicles other than railway or tramway rolling-stock*" and more specifically, under Heading 8708 and Tariff item 8708 99 00.

4. On a perusal of the Section Note 2(b) of Chapter XVII of the First Schedule of CTA, it is understood that the expressions "parts" and "parts and accessories" do not apply to "parts of general use" defined in Section Note 2 of Section XV of the First Schedule of CTA, or similar goods of plastic under Chapter 39. Since Plastic Pipe Clips attract classification under the Heading 3926, it is excluded from being covered within the expressions "parts" and "parts and accessories" found in Section XVII of First Schedule, which encompasses Chapter 87 in its ambit, by virtue of Section Note 2(b).

5. Therefore, in terms of Section Note 2(b) of Section XVII, the correct manner of classification of Plastic Pipe Clips is under Chapter SH 3926 90 99.

6. It is also pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation of CTA, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.

7. Reliance in this regard can also be placed on the decision of the Hon'ble Supreme Court in the **Moorco Case mentioned above**.



8. In view of all the foregoing, it can be concluded that Plastic Pipe Clips merit classification under the Tariff item 3926 90 99.

E. Plastic Brackets, Plastic Cable Channels

Nature of the product

1. Plastic Brackets and Plastic Cable Channels are fittings made of plastic which are essentially used to bind and arrange a bunch of wires/ cables together and to provide a supportive framework to wires/ cables in the internal parts of a motor vehicle ("**Brackets and Channels**"). Brackets and Channels are custom made to suit a vehicle's requirement. Brackets and Channels may be used in other sectors only if they are suitably modified to meet the needs of that sector. Images of Brackets and Channels are enclosed herein and marked as **Exhibit E**.

Classification of the product

Brackets and Channels *should be classified under Chapter 87 of the First Schedule:*

2. Since Brackets and Channels are primarily used to bind and arrange wires/ cables and to provide a supportive framework to wires/ cables in the internal parts of a motor vehicle, they merit classification under Chapter 87 of the First Schedule, which pertains to "Vehicles other than railway or tramway rolling-stock".
3. On a perusal of the Section Note 3 of Chapter XVII of the First Schedule of CTA, it is understood that references to the expressions "parts" or "accessories" in Chapters 86 to 88 do not cover within their ambit parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. It is clear from paragraph 1 above that Brackets and Channels are designed to be used in the manufacture of motor vehicles. Though Brackets and Channels are capable of being used in other industries with certain modifications, they are currently principally being used in the manufacture of motor vehicles by automobile manufacturers.
4. Therefore, Brackets and Channels satisfy the test of "Principal use" or "Sole use" set out in Section Note 3 of Section XVII of the CTA and may be classified under Chapter 87.
5. Under Chapter 87, the relevant heading for classification of Subject Products is Heading 8708, since it is clear that Brackets and Channels can be considered as parts and accessories of motor vehicles, under the specific Tariff item 8708 99 00.

Brackets and Channels *should not be classified under Chapter 39 of the First Schedule:*

6. On a perusal of Section Note 2(b) of Chapter XVII of the First Schedule of the CTA, it is understood that the expressions "parts" and "parts and accessories" do not apply to "parts of general use" defined in Section Note 2 of Section XV of the First Schedule, or similar goods of plastic under Chapter 39. Therefore, by virtue of Section Note 2(b) of Chapter XVII of the First Schedule, it may *prima facie* appear that the Subject Products ought to be classified under Chapter 39 and more specifically under the Heading 3917 which pertains to "*Tubes, pipes and hoses, and fittings therefor (for example, joints, elbows, flanges), of plastics*".



7. But, it is pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.
8. Reliance in this regard can also be placed on the decision of the Hon'ble Supreme Court in the *Moorco Case* mentioned above.
9. In view of Rule 3(a) of General Rules for Interpretation, it can be concluded that Brackets and Channels merit classification under Tariff item 8708 99 00 despite being "parts of general use" made of plastic, and not under Chapter 39 of the First Schedule.

F. Non – Return Valve

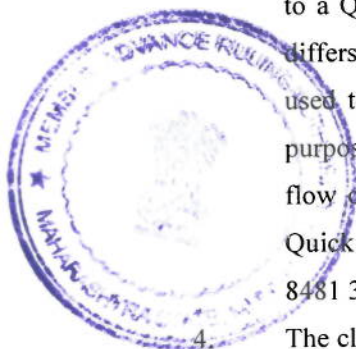
Nature of the product

1. The subject product is a type of valve made of a mixture of materials ("**Non-Return Valve**") , used for the purpose of restricting the flow of a fluid in one direction and thus may find use in all internal fluid lines of a motor vehicle. Though capable of being used in other industries, it is currently being used only in the automobile industry. An image of Non-Return Valve is enclosed herein and marked as **Exhibit F**.

Classification of the product

Non-Return Valve should be classified under Chapter 84 of the First Schedule:

2. Non-Return Valves by its very description merits classification under Chapter 84 of the First Schedule, which pertains to "Machinery and mechanical appliances". Under Chapter 84, the relevant heading for the classification of Non-Return Valves is Heading 8481, and the specific Tariff item is 8481 30 00.
3. Though from a *prima facie* appraisal of the form of a Non-Return Valve, it appears to be similar to a Quick Connector (discussed under the section "C. Adaptor for Plastic Pipe"), in reality it differs from a Quick Connector in terms of its functionality. Non-Return Valves are specifically used to restrict the flow of fluid to one direction whereas Quick Connectors are used for the purpose of internal fluid handling and do not possess the ability to provide for unidirectional flow of fluids. Thus, Non-Return Valves cannot be classified under the same entry as that of Quick Connectors, which is Tariff item 3917 40 00 and should be classified under the Tariff item 8481 30 00.
4. The classification of Non-Return Valves under the Tariff item 8481 30 00 is further supported by the Explanatory Notes to heading 84.81 of HSN Explanatory Notes, which is reproduced below:
"The heading includes inter alia:
 (1) ...
 (2) ...
 (3) *Nonreturn Valves (E.g. swing check vales and ball valves)"*
6. Therefore, by virtue of the description of the product and the HSN Explanatory Notes extracted at paragraph 5 above, it can be concluded that Non-Return Valves should be classified under Tariff item 8481 30 00.



Non-Return Valve should not be classified under Chapter 87 of the First Schedule:

5. In the pre-GST regime, the Non-Return Valves were classified under Chapter 87 of the First Schedule which pertains to “Vehicles other than railway or tramway rolling-stock” and more specifically, under the Heading 8708 and Tariff item 8708 99 00.
6. On a perusal of the Section Note 2(e) of Chapter XVII of the First Schedule of the CTA, it is understood that the expressions “parts” and “parts and accessories” do not apply to articles of Heading 8481 or 8482. Since Non-Return Valve attracts classification under the Tariff item 8481 30 00, it is disqualified from being classified under Section XVII, which covers Chapter 87. This is also corroborated by the HSN Explanatory Notes extracted at paragraph 5 above.
7. Therefore, in terms of Section Note 2(e) of Section XVII of the First Schedule, the correct manner of classification of Non-Return Valve is under Chapter 84 and more specifically under Tariff item 8481 30 00.
8. It is also pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.
9. Reliance in this regard can also be placed on the decision of the Hon’ble Supreme Court in the **Moorco Case mentioned above.**
10. In view of all the foregoing, it can be concluded that Non-Return Valve merits classification under Tariff item 8481 30 00.

G. Metal U Clips

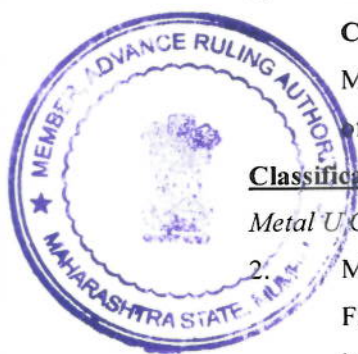
Nature of the product

1. The subject product is a type of clip made of base metal fashioned in a U-shape (“**Metal U Clips**”). It may be used in the interior or exterior of a motor vehicle to join two panels together. Metal U Clips also find use in a variety of others sectors like refrigeration and gensets. An image of Metal U Clips is enclosed herein and marked as **Exhibit G**.

Classification of the product

Metal U Clips should be classified under Chapter 73 of the First Schedule:

2. Metal U Clips by its very description and nature merits classification under Chapter 73 of the First Schedule, which pertains to “Articles of Iron or steel”. Under Chapter 73, the relevant heading for the classification of Metal U Clips is Heading 7326, and the specific Tariff item is 7326 90 99. *Metal U Clips should not be classified under Chapter 87 of the First Schedule:*
3. In the pre-GST regime, the Metal U Clips were classified under Chapter 87 of the First Schedule which pertains to “Vehicles other than railway or tramway rolling-stock” and more specifically, under the Heading 8708 and the Tariff item 8708 99 00.
4. On a perusal of the Section Note 3 of Chapter XVII of the First Schedule, it is understood that references to the expressions “parts” or “accessories” in Chapters 86 to 88 do not cover within their ambit parts or accessories which are not suitable for use solely or principally with the



articles of those Chapters. Metal U Clips, being generic in nature, are capable of being used in other industries. Its use is not limited to the automobile sector.

5. Therefore, Metal U Clips do not satisfy the test of “Principal use” or “Sole use” set out in Section Note 3 of Section XVII and is disqualified from being classified under Chapter 87.
6. It is pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation of CTA, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.
7. Reliance in this regard can also be placed on the decision of the Hon’ble Supreme Court in the **Moorco Case mentioned above.**
8. In view of all the foregoing, it can be concluded that Metal U Clips merit classification under the Tariff item 7326 90 99 and not under the Tariff item 8708 99 00.

Moulding Fasteners, Spoiler Lips

Nature of the product

1. Moulding Fasteners and Spoiler Lips are essentially articles made of plastic which find use in the body of a motor vehicle (“**Fasteners and Spoiler**”). Moulding Fasteners belong to a generic product category in which articles made of plastic, which do not qualify as rivets, nuts, screws, etc, are grouped (“**Moulding Fasteners**”). Moulding Fasteners are primarily used for holding plastic parts in place, mounting parts on the body of a motor vehicle or to provide support to shafts and pipes. An image of Moulding Fasteners is enclosed herein and marked as **Exhibit H** and an image of Spoiler Lips is enclosed herein and marked as **Exhibit I**.

Classification of the product

Fasteners and Spoilers should be classified under the Tariff item 8708 29 00:

Since Moulding Fasteners are mainly used to hold plastic parts in place and mount parts on the body of a motor vehicle, while Spoiler Lips are attached to the rear end of a car for aesthetic purposes, the Fasteners and Spoilers merit classification under Chapter 87 of the First Schedule, which pertains to “*Vehicles other than railway or tramway rolling-stock*”.

3. On a perusal of the Section Note 3 of Chapter XVII of the First Schedule to the CTA, it is understood that references to the expressions “parts” or “accessories” in Chapters 86 to 88 do not cover within their ambit parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. It is clear from paragraph 1 above that the Fasteners and Spoilers are designed to be used in the manufacture of motor vehicles. Though Moulding Fasteners in question are capable of being used in other industries with certain modifications, they are currently principally used in the manufacture of motor vehicles by automobile manufacturers. The fact that Spoiler Lips are parts which are affixed on the rear end of a car to enhance its aesthetics makes it clear that Spoiler Lips are principally used in the manufacture of motor vehicles by automobile manufacturers.
4. Therefore, the Fasteners and Spoilers satisfy the test of “Principal use” or “Sole use” set out in Section Note 3 of Section XVII and may be classified under Chapter 87.



5. Under Chapter 87, the relevant heading for classification of the Fasteners and Spoilers is Heading 8708, since it is clear that the Fasteners and Spoilers can be considered as parts and accessories of motor vehicles, and the specific Tariff item 8708 29 00. *Fasteners and Spoilers should not be classified under the Tariff item 8708 99 00.*
6. In the pre-GST regime, the Subject Products were classified under Chapter 87 of the First Schedule and more specifically, under the Tariff item 8708 99 00.
7. But, it is pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation of the CTA, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.
8. Reliance in this regard can also be placed on the decision of the Hon'ble Supreme Court in the ***Moorco Case mentioned above.***
11. Since it can be clearly ascertained from the nature of the Fasteners and Spoilers that they are parts and accessories of a motor vehicle and are found on the exterior of a motor vehicle, it can be concluded that the Fasteners and Spoilers merit classification under Tariff item 8708 29 00.

Bracket (Metal Assemblies)

Nature of the product

1. The subject product is a type of bracket made of metal ("**Bracket**") and is primarily used to support wiring harness and pipes in the engine compartment of a motor vehicle.

Classification of the product

Present Classification:

Currently, Bracket is classified under Chapter 87 of the First Schedule which pertains to "Vehicles other than railway or tramway rolling-stock" and more specifically, under the Heading 8708 and the Tariff item 8708 99 00.

Proposed Classification:

3. A Raymond India intends to continue classifying Bracket under Tariff item 8708 99 00.
4. On a perusal of the Section Note 3 of Chapter XVII of the First Schedule of the CTA, it is understood that references to the expressions "parts" or "accessories" in Chapters 86 to 88 do not cover within their ambit parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. It is clear from paragraph 1 above that the Bracket is designed to be used in the manufacture of motor vehicles, though they are capable of being used in other industries with certain modifications.
5. Therefore, the Bracket satisfies the test of "Principal use" or "Sole use" set out in Section Note 3 of Section XVII and can be continued to be classified under Chapter 87. It is now relevant to determine the specific entry under which the Bracket is to be classified.
6. On a perusal of heading 8708, it can be said that the Bracket in question may attract classification under Tariff item 8708 29 00 and 8708 99 00.



7. In this context, it is relevant to refer to Rule 3(a) of General Rules for Interpretation of CTA, which provides that when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description.
8. Reliance in this regard can also be placed on the decision of the Hon'ble Supreme Court in the **Moorco Case as mentioned above.**
9. Since it is clearly ascertainable from the nature of the Bracket that it is a part or accessory of a motor vehicle which is present in the interior of a motor vehicle, it can be concluded that the Bracket merit classification under Tariff item 8708 99 00.

J. Stainless Steel Washer

Nature of the product

1. The subject product is essentially an anti-creeping ring which is mounted on plastic parts to prevent damage to the part when a screw is affixed to it ("Steel Washer"). While, Steel Washer finds use in the automobile industry in parts like bumpers, front panel and dashboards, its usage is also extended to various other industries. An image of Steel Washer is enclosed herein and marked as **Exhibit J.**

Classification of the product

Steel Washer should be classified under Chapter 73 of the First Schedule:

1. The subject product is essentially an anti-creeping ring which is mounted on plastic parts to prevent damage to the part when a screw is affixed to it ("Steel Washer"). While, Steel Washer finds use in the automobile industry, its usage is also extended to various other industries. An image of Steel Washer is enclosed herein and marked as **Exhibit J.**

Steel Washer should be classified under Chapter 73 of the First Schedule:

2. Steel Washer by its very description and nature merits classification under Chapter 73 of the First Schedule, which pertains to "Articles of iron or steel". Under Chapter 73, the relevant heading for the classification of Steel Washer is Heading 7318, and the specific Tariff item is 7318 21 00.

Subject Product should not be classified under Chapter 87 of the First Schedule:

3. In the pre-GST regime, the Subject Product was classified under Chapter 87 of the First Schedule which pertains to "*Vehicles other than railway or tramway rolling-stock*" and more specifically, under the Heading 8708 and Tariff item 8708 99 00.
4. On a perusal of Section Note 2(b) of Chapter XVII of the First Schedule of the CTA, it is understood that the expressions "parts" and "parts and accessories" do not apply to "parts of general use" defined in Section Note 2 of Section XV of the First Schedule, which *inter alia* includes articles of heading 7318. Since Steel Washer merits classification under Tariff Item 7318 21 00, which comes within the ambit of Heading 7318, it will be tantamount to "parts of general use" and thereby will be disqualified from being classified under Chapter 87 by virtue of Section Note 2(b) of Chapter XVII of the First Schedule of the CTA.

5. Further, in terms of Section Note 3 of Chapter XVII of the First Schedule of the CTA, it is understood that references to the expressions “parts” or “accessories” in Chapters 86 to 88 do not cover within their ambit parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. Since, Steel Washer is capable of being used in industries other than automobile industry without any modification, it does not satisfy the test of “Principal or Sole use” set out in Section Note 3 of Section XVII of the First Schedule of CTA, & is therefore excluded from being classified under Chap 87.
6. It is pertinent to note that in terms of Rule 3(a) of General Rules for Interpretation, when a product is classifiable under two or more headings, the heading which provides the most specific description should be preferred over the heading which gives the general description. Reliance in this regard can also be placed on the decision of the Hon’ble Supreme Court in the *Moorco case*, mentioned above.
7. In view of all the foregoing, it can be concluded that Steel Washer attracts classification under the Tariff item 7318 21 00 as it finds use in multiple industries.

Prayer

- i. **In view of the factual matrix in the Applicant’s case and the extant legal provisions, the Applicant seeks an Advance Ruling from this Hon’ble Authority in respect of the classification of the Products for the purpose discharging applicable IGST at the time of import of the Products mentioned above.**
- ii. The Applicant humbly prays that it be granted an opportunity of a hearing to present and explain its submissions and case.

Amendment in application

Due to change in our understanding based on further information available regarding the nature of two Imported Products, namely Metal U Clips (specified at Sl. No. A.7 of Form GST ARA-01 submitted along with the Application) and Stainless Steel (specified at Sl. No. A.10 of Form GST ARA-01 along with the Application), we wish to amend our submissions in the manner set out in **Annexure B**. **Accordingly we have made changes in the original application so that we have not repeated the same submissions.**

Additional submissions on 25.02.2019.

During the course of the final hearing, the Department vide the captioned Letter put forth the following contentions:

1. **Para 2 of the covering letter dated 18 November 2018 accompanying the ARA, indicates that the Applicant is seeking to determine the appropriate classification for the imported products in terms CTA, 1975 and the Classification Notification.**
2. In the column titled "Description (in brief)" **present in the FORM GST ARA 01 ("Form")**, the description provided by the Applicant is *import of certain products for manufacturing industrial clip fasteners and prototyping assembly systems which ore used in automobiles."*
3. Applicant is seeking **classification of imported goods** for which CGST, Pune - 1 is not the jurisdictional authority.

4. The Advance Ruling Authority (GST), Maharashtra ("Authority") is not the correct Advance Ruling Authority as the Applicant is seeking classification of imported goods, for which there are separate Regulations viz. Authority for Advance Rulings (Central Excise, Customs and Service Tax) Procedure Regulations, 2005.

In the response to the above contentions raised by the Department, the Applicant makes the following submissions, which are being made without prejudice to, and are to be read along with the submissions made in the ARA, and with the submissions made during the hearings:

1. **The Applicant is also engaged in manufacturing and trading of products**

- 1.1 It is submitted that while the products in question are being imported, the same products are also manufactured and supplied locally by the Applicant, which will transaction will be subject to the levy of CGST+SGST (or IGST, as the case may be), thereby necessitating the need to present this ARA before this Hon'ble Authority for the purpose of determining the appropriate classification of the products, and resultantly the applicable rate of CGST+SGST (or IGST, as the case may be).

- 1.2 *Vide* the Letter the Department has contended that the Applicant has sought classification of imported products by placing reliance on the summary of description provided in the Form. In this regard, the Applicant wishes to submit that this contention of the Department is premised on an isolated reading of the summary of description provided in the Form, without taking into account a) the detailed submissions made in this respect by the Applicant in Annexure I and II to the Form, i.e., in the ARA, which provide a detailed description of the activities undertaken by the Applicant; and b) the submission made by the Applicant at the time of admission hearing on 15th January, 2019 in presence of the Department's representative,

- 1.3 With an intent to apprise this Hon'ble Authority with the complete set of facts relevant to the issue at hand, and to provide complete disclosure in respect to the transaction involved, the Applicant had Annexed Annexure I and II to the Application. However, the Department has placed reliance on the brief description provided in the Form. This evidences that the Department has without appreciating the true nature of the transaction involved, on the basis of a cursory perusal of the Form, raised this contention, which practice is bad in law?.

- 1.4 Additionally, *vide* the Letter, the Department has contended that the Applicant has sought to determine the classification of the imported products in terms of CTA and the Classification Notification. In this regard it is relevant to note that the Classification Notification has been issued under Section 9 of the CGST Act, 2017 to provide for the applicable rate of Goods and Services Tax ("GST") on supply of goods which are mentioned in the Schedule therein. IGST that will be leviable on inter-state supply of goods is also determined in terms of the Classification Notification.

- 1.5 *Vide* this contention of the Department, it is clear that the Department has recognized that the Applicant is desirous of seeking the appropriate classification of the products in terms of the



Classification Notification, which sets out the rate at which IGST is to be discharged on inter-state supply of goods, by drawing support for the same from the CTA.

- 1.6 Therefore, while on one hand, the Department has taken into cognizance the fact that the Applicant wishes to seek the appropriate classification of the products by employing a conjoint reading of the Classification Notification and the CTA (and not solely on the basis of the CTA), on the other hand, the Department has failed to take the same into consideration while making its subsequent contentions

2. **Authority is empowered to rule on classification of goods under Sec 97 of CGST Act**

- 2.1 In terms of the provisions governing the process of Advance Ruling, permitted questions are to be posed to the Authority of Advance Ruling who has been empowered to rule on the questions. Question regarding classification of goods is permitted in terms of Section 97 of the CGST Act.

- 2.2 Thus, in view of Section 97 of CGST Act, this Hon'ble Authority is obliged to afford an opportunity of personal hearing to this Applicant, and to rule on the appropriate classification of the products by passing an order in this regard.

- 2.3 It is pertinent to mention here that there have been instances in the GST regime where Advance Ruling Authorities have dealt with the issue of determining appropriate classification of imported products and have ruled contrarily to the stance adopted by the Customs Department. One such instance emerges from the ruling passed by the Authority for Advance Rulings, Gujarat in the case *Dyna Automation (P.) Ltd., in re [2018] 94 taxmann.com 143 (AAR-GUJARAT)* wherein the Customs Department was of the view that the imported 'Steering Unit' merited classification under the CTH 8708 whereas the applicant therein believed that the product merited classification under CTH.8481. The authority in the aforementioned case was pleased to rule in favour of the applicant after perusal of the relevant legal provisions.

- 2.4 Therefore, this Hon'ble Authority is competent to provide a conclusive ruling on the ARA, for the purpose of determination of classification of imported goods.

3. **The rules of interpretation for the purpose of classification under GST law are identical to those under Customs Law .**

- 3.1 The classification of the products is to be in done in accordance with the rules for interpretation of the First Schedule of the CTA in terms of Explanation (iv) of the Classification Notification, which are a definitive set of rules prescribed for the classification of goods under the Customs law, erstwhile Central Excise law and the current GST law. Resultantly, interpretation for the purpose of classification of a product, remain the same irrespective of the authority before whom the question is posed, Reliance in this regard can be placed on *Western Cable Engineering (P.) Ltd., in re [2018] 97 taxmann.com 155 (AAR-DAMAN, DIU AND DNH (Supra), wherein the court observed that "We note that Harmonized System of Nomenclature (HSN) is internationally recognized product/items coding system which has also been accepted in India. From the above detailed Chapter Sub*



Heading wise classification of the product in the existing law, ie., under Central Excise it is found that the classification of the above said product is one and the same under GST regime as well as under Customs law. No change in the classification under all the entire three. "Act" have been noticed."

3.2 Thus, as the rules for the interpretation of a product remain the same under both the GST and Customs law, an assessee is free to approach any of the authorities as the function exercised by both are similar in nature.

4. Other submissions

4.1 Without prejudice to the submissions made above, the Applicant wishes to make the following submissions:

- The question pertaining to the jurisdiction of this Hon'ble Authority to rule on the classification of the products that form a part of the ARA, should have been raised during the admission hearing conducted on 15th January 2019. The representative of the Department was afforded an opportunity to contest the admissibility of the ARA during the admission hearing. Despite being provided with an opportunity to contest the admissibility of the ARA, no contention was raised by the representative of the Department in this regard. Consequently, this Hon'ble Authority was pleased to admit the ARA. Therefore, the Department should not be permitted to raise contentions regarding the jurisdiction of this Hon'ble Authority to rule on the ARA at this stage of the proceedings and as the Authority has admitted the Application, it should pass an order setting out the classification of the products under GST:
- If this Hon'ble Authority agrees with the Department's contention, the same would be a tacit concurrence of the fact that in case of imported goods, which are post importation traded in India, the classification decided by the Customs AAR would be binding on this Hon'ble Authority.

5. Conclusion:

5.1 in light of the above and the ARA filed by the Applicant on 19 November 2018, the wishes to deny all the contentions raised by the Department vide the Letter, and prays that:

- i. an opportunity of being heard be provided by this Hon'ble Authority, followed by passing of an order setting out the appropriate classification of the products that form a part of the ARA; or
- ii. alternately, an order be issued by this Hon'ble Authority confirming that any order passed by the Customs AAR in this regard, would be binding on this Hon'ble Authority for the purpose of GST.
- iii. alternately, if no order is passed setting out classification of the products, it would be deemed as tacit concurrence to the classification determined by Customs AAR for the purpose of GST

We request you to provide an opportunity of personal hearing before a ruling is passed under this ARA. “



03. CONTENTION – AS PER THE CONCERNED OFFICER

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

“From para 2 of assessee’s forwarding letter it is seen that the assessee is seeking to determine the appropriate classification for the imported products in terms of the Customs Tariff Act, 1985 and Notification No. 1/2017-Integrated Tax (Rate) dated 28th June, 2017.

Further, in the FORM GST ARA – 01 filed by them, in Column 8- Description (in brief), the assessee has given description of the products as “Import of certain products for manufacturing industrial clip fasteners and prototyping assembly systems which are used in automobiles.

In view of the above, it appears that the assessee is seeking classification imported goods for which CGST, Pune – I is not the jurisdictional authority.

Further the Advance Ruling Authority (GST), Maharashtra may not be the correct Advance Ruling Authority if the assessee is seeking classification of imported goods as there are separate Regulations governing the imported goods viz. Authority for Advance Ruling (Central Excise, Custom and Service Tax) Procedure Regulations, 2005. This is brought to your notice for further necessary action in the matter. This issues with the approval of Commissioner.

04. HEARING

Preliminary hearing in the matter was held on 15.01.2019. Sh. Nishant Shah, Advocate and Sh. Abhinay Kapoor appeared & requested for admission of application as per details in their application. Jurisdictional Officer Sh. Indarjeet Singh, Supdt., Pune- I, also appeared.

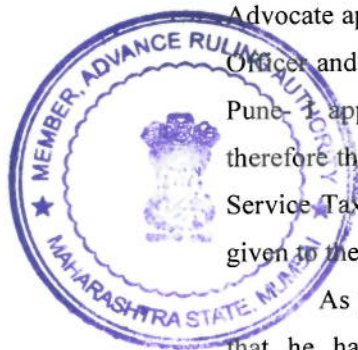
The application was admitted and called for final hearing on 07.02.2019. Sh. Nishant Shah, Advocate appeared, made oral and written submissions. Applicant received reply from the Jurisdictional Officer and they asked for time to reply to the same. Jurisdictional Officer, Sh. Indarjeet Singh, Supdt., Pune- I, appeared and submitted that the applicant is seeking classification of imported goods and therefore they should apply for ruling to the Authority for Advance Rulings (Central Excise, Customs & Service Tax) Procedure Regulations, 2005. The applicant has also requested for a fresh hearing to be given to them.

As per request of the applicant, Sh. Nishant Shah, Advocate appeared on 07.05.2019 and stated that he had already submitted their written contentions. Nobody attended from the concerned jurisdictional office.

05. OBSERVATIONS

5.1 We have gone through the facts of the case, written submissions of both the parties and documentary evidences submitted on record. The issue put before us is in respect of a classification of imported products which would be on the lines thus -

5.2 We find that applicant is registered person under GST Act and involved in the developing and manufacturing of various types of fasteners and other accessories for a variety of industries. Applicant is engaged in the manufacture of, amongst others, industrial clip fasteners and prototyping assembly



systems, which are primarily used in automobiles. Products manufactured by the Applicant are supplied locally, typically to businesses which are registered under GST Act all over India.

5.3 We find that, to manufacture the products, the Applicant procures various inputs from outside India i.e. imported products from various sources/ nations, which are then used in the manufacture and subsequent sale of final products viz. industrial clip fasteners, prototyping assembly systems etc. The procurement of products for manufacturing of goods, comes under the term interstate supply u/s 7 of IGST ACT 2017.

5.4 We find that as per Section 5(1) of the **IGST Act**, IGST is to be levied on all inter-State supplies of goods and services, on the value determined under Section 15 of the **CGST Act**.

5.5 The applicant has made the subject application to this authority, for the appropriate classification of the enumerated products imported by them.

5.6 The application was admitted on the basis of oral contention and written submission made by the applicant and jurisdictional officer. However on perusal of the submissions and documents on record, we find that the query has been raised by the applicant in respect of goods imported by them which are then used in the manufacture of finished goods.

5.7 This authority is governed by the provisions of Chapter XVII of CGST ACT and the relevant Sections 95 to 98, 102, 103, 104 and 105. As per section 95, the term 'advance ruling' means a decision provided by this authority to the applicant on matters or questions specified in subsection 2 of Section 97, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. For the sake of better understanding Section 97 is reproduced as below:

Section 97:

97(1): *an applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

97(2): *The question on which the advance ruling is sought under this Act, shall be in respect of,—*

- (a) *classification of any goods or services or both;*
- (b) *applicability of a notification issued under the provisions of this Act;*
- (c) *determination of time and value of supply of goods or services or both;*
- (d) *admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) *determination of the liability to pay tax on any goods or services or both;*
- (f) *whether applicant is required to be registered;*
- (g) *whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

5.8 Before we decide the questions raised by the applicant in this application, it is essential that it be first determined whether or not the activities undertaken by the applicant pertains to matters or questions specified in Section 97(2) mentioned above. The applicant has raised questions for classification of their inputs imported from out of India and which are used by them in the manufacturing process to produce products which are then supplied to the market. We find primarily that, as per provision of section 95 of



CGST ACT, this authority can give a ruling to the applicant on matters or questions raised, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

5.9 In the subject case we have to first find whether there is a supply of goods as per Section 7 of the GST Act. Section 7 is reproduced herein below:-

Section 7. Scope of Supply --(1) For the purposes of this Act, the expression "supply" includes— (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),—

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

From a reading of the said section it is very apparent that, import of services are alone considered as a 'supply', not import of goods. Further we find that Section 5 of the IGST Act, the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the CTA, 1975 on the value as determined under the said act at the point when duties of Customs are levied on the said goods under Section 12 of the Customs Act, 1962.

Since the subject proposed transaction is itself not a 'supply' under the GST Act, in view of the provisions of Section 95 read with Section 97 of the GST Act, the issue is not within the purview of this authority.

5.9 Further to the above and as per the provisions of Section 5 of the IGST ACT, IGST is leviable on interstate supply i.e. on imported goods from outside India. IGST is levied on the basis of the scheme of HSN code of that products prescribed in CTA, Act 1975. The IGST and other custom duties are levied by the customs authorities, at the point of importation in India, whilst clearing the imported goods under appropriate HSN Code. On goods imported into India, the Customs Authority, is the first authority to charge IGST, and to classify the imported goods/product. For queries with respect to classification of imported goods, there are separate Regulations viz. 'Authority for Advance Ruling (Central Excise, Custom and Service Tax) Procedure Regulations, 2005' and as per the said Regulations, the AAR of

Central Excise, Custom and Service Tax, 2005 is the appropriate authority to answer the questions related to classification of imported goods.

5.10 We have considered the arguments made by the jurisdictional officer and written contentions of the applicant in respect to objections raised by the said officer in this matter and also case laws cited on record. We find that this authority is not allowed to answer the question on classification of imported goods since the same is out of the purview of Sec. 95 of CGST Act.

5.11 We find that after the jurisdictional office has raised the issue of classification of imported goods not being covered for the purposes of ruling by this authority, the applicant has further, in their additional submissions contended that the same products are also supplied locally, out of manufacturing, by them. However they have not supported their new contentions with any material evidence on record. Hence we find the applicant's said contention is not proper and justifiable.

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- 91/2018-19/B- 53 Mumbai, dt. 09/05/2019

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

The Application in GST ARA form No. 01 of A Raymond Fasteners India Pvt. Ltd, vide reference ARA No. 91 dated 19.11.2018 is rejected as being not maintainable.



sd—
B. TIMOTHY
(MEMBER)

sd—
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY

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.

sd—
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, 15th floor, Air India building, Nariman Point, Mumbai – 400021.