
	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF: Dr S.L. Sreeparvathy, IRS &
Shri Abraham Renn S, IRS

Legal Name of the applicant	S. Radhakrishnan, M/s. Bright Metal Works
GSTIN	32DPEPS4878Q1ZX
ARN	AD3201220081530
Address	CP XVII/334, Sreenanthanam, Chavara (Bridge Post), Chavara, Kollam – 691583.
Advance Ruling sought for	<ul style="list-style-type: none"> i) The tax rate of marine propellers, stern tube set, rudder set, SS propellers shaft, MS shaft for couplings and intermediate, and cutlass rubber bushes. ii) The parts of fishing / floating vessels come under HSN 8902. It is requested to know whether all parts of fishing / floating vessels come under Sl. No.252 of 1st schedule or Sl. No.371 of 3rd schedule? iii) Whether replacement of parts during the warranty period constitute supply under GST? iv) Whether eligible to avail 18% input tax credit on the purchase of raw materials, as the manufactured products are taxable @ 5% 247/252 of 1st schedule. v) Kindly give a ruling specifying the HSN code of cutlass rubber bush.
Date of Personal Hearing	20.07.2022
Authorized Representative	Mr S. Radhakrishnan, Proprietor

ADVANCE RULING No.KER/15/2023 Dated 03/03/2023

1. Mr S. Radhakrishnan, Proprietor of M/s. Bright Metal Works (**hereinafter referred to as the applicant**), is engaged in the manufacturing of marine propellers, stern tube set, rudder sets, SS propeller shafts, MS shafts for coupling, intermediate shafts and cutlass rubber bushes used in fishing / floating vessels.
2. At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules, and the notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules, and the notifications issued there under.
3. **The applicant requested Advance Ruling on the following:**
 - 3.1. The tax rate of marine propellers, stern tube set, rudder set, SS propellers shaft, MS shaft for couplings and intermediate and cutlass rubber bushes?
 - 3.2. The parts of fishing / floating vessels come under HSN 8902. It is requested to know whether all parts of fishing / floating vessels come under Sl.No.252 of the 1st schedule or Sl.No.371 of the 3rd schedule?
 - 3.3. Whether the replacement of parts during the warranty period constitutes supply under GST?
 - 3.4. Whether eligible to avail of 18% input tax credit on the purchase of raw materials, as the manufactured products are taxable at the rate of 5% 247/252 of 1st schedule?
 - 3.5. Kindly give a ruling specifying the HSN code of cutlass rubber bush?

4. Contentions of the Applicant:

4.1. The applicant submitted that they are dealing with marine propellers 84871000; rubber set for fishing boats – 7325; stern tube set for fishing boats 7304; S.S Propeller shaft – 7221 and 7222; M S Shaft 7213 - 7215 and the above attract GST at the rate of 18% as per entry at Sl. Nos. 371, 237, 218, 209 and 204 of Schedule III of Notification No. 01/2017 CT (Rate) dated 28.06.2017. They submit that all the above products are used for fishing / floating vessels and as per Sl. No. 252 of Schedule I of Notification No.01/2017CT (Rate) dated 28.06.2017 the parts of goods of Headings 8901, 8902, 8904, 8905, 8906, and 8907 falling under any chapter attracts GST at the rate of 5%. Marine propellers, stern tube sets, rudder sets, SS propeller shafts, and MS shafts for coupling and intermediate and other related spare parts supplied by them are used in fishing / floating vessels. Since the products manufactured are mainly used for fishing and other allied activities, the applicant is of the opinion that the rate of tax applicable to the above products is 5% as per entry at Sl. No. 252 of Schedule I of the Central Tax Rate Notification No.01/2017. As the classification of the commodities under Entry 252 solely depends on the nature of the use to which the commodities are put, the applicant believes that the commodities mentioned have to be rightfully classified under Entry 252 and hence taxable at the rate of 5% [SGST 2.5% and CGST 2.5%]. The applicant has placed reliance on the Advance Ruling No.KER/25/2018 dated 20.10.2018 of this Authority.

5. Comments of the Jurisdictional Officer:

5.1. The application was forwarded to the jurisdictional officer as per provisions of subsection (1) of Section 98 of the CGST/SGST Act. The jurisdictional officer has reported that the questions raised in the advance ruling application is not pending or decided in that office in any proceedings under the provisions of the GST Act.

6. Personal Hearing:

6.1. The applicant was granted an opportunity for a personal hearing on 20.07.2022 via virtual mode. Sri. Jayakrishnan, the Authorized Representative of the applicant attended the personal hearing. The representative reiterated the contentions made in the application.

7. Discussion and Findings:

7.1. The issue was examined in detail. The application is admissible as per subsection (2) of Section 97. The issue raised before the authority is the classification and rate of GST of marine propellers, stern tube sets, rudder sets, SS propeller shafts, MS shafts for couplings and intermediate and cutlass rubber bushes manufactured /supplied by them for use in fishing / floating vessels. The contention of the applicant is that the above goods are supplied by them for use in fishing / floating vessels falling under Customs Tariff Head 8902 and accordingly they are liable to GST at the rate of 5% as parts of goods of CTH 8902 as per entry at Sl. No. 252 of Schedule I of Notification No. 01/2017 CT (Rate) dated 28.06.2017 irrespective of the CTH in which they are classified.

7.2. It is an admitted fact that the Marine Propellers, Rudder Set, Stern Tube Set, SS Propeller Shaft and MS Shaft are classifiable under Customs Tariff Headings 8487 – Ships or boats propellers and blades therefor; 7325 – Rudders for ships or boats; 7304 – Tubes, pipes and hollow profiles of iron; 7222 – Other bars and rods of stainless steel and 7215 – Other bars and rods of iron or non-alloy steel and attracts GST at the rate of 18% as per entry at Sl. Nos. 371, 237, 218, 209 and 204 respectively of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017.

7.3. Ships, boats and floating structures are classifiable under Chapter 89 of the Customs Tariff Act, 1975. CTH 8901 covers Cruise ships, excursion boats, ferry boats, cargo ships, barges and similar vessels for the transport of persons or goods; 8902 covers Fishing vessels, factory ships and other vessels for

processing or preserving fishery; 8904 covers Tugs and pusher crafts; 8905 covers Light vessels, fire-floats, dredgers, floating cranes and other vessels; 8906 covers other vessels including warships and lifeboats other than rowing boats and 8907 covers other floating structures and are liable to GST at the rate of 5% as per entries at Sl. Nos. 246, 247, 248, 249, 250 and 251 respectively of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. Further as per entry at Sl. No. 252 of Schedule I of Notification No.1/2017CT (Rate) dated 28.06.2017 the parts of goods of Headings 8901, 8902, 8904, 8905, 8906, and 8907 falling under any chapter attracts GST at the rate of 5%.

7.4. The CBIC in Para 10 of Circular No.52/26/2018 - GST dated 09.08.2018 has clarified as follows;

"10.1 Applicability of GST on marine engine: Reference has been received seeking clarification regarding GST rates on Marine Engine. The fishing vessels are classifiable under heading 8902, and attract GST @ 5%, as per Sl. No. 247 of Schedule I of the notification No. 01/2017-Central Tax (Rate) dated 28.06.2017. Further, parts of goods of heading 8902, falling under any chapter also attract a GST rate of 5%, vide S. No. 252 of Schedule I of the said notification. The Marine engine for a fishing vessel falling under Tariff item 8408 10 93 of the Customs Tariff Act, 1975 would attract a GST rate of 5% by virtue of Sl. No. 252 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017.

10.2 Therefore, it is clarified that the supplies of marine engine for fishing vessel (being a part of the fishing vessel), falling under tariff item 8408 10 93 attracts 5% GST."

Therefore, if the Marine Propellers, Rudder Set, Stern Tube Set, SS Propeller Shaft and MS Shaft are supplied for use as part of fishing vessels falling under Customs Tariff Headings 8902 or vessels falling under Customs Tariff Headings 8901, 8904, 8905, 8906 and 8907 will attract GST at the rate of 5% as per the entry at Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. If it is supplied for use other than as parts of vessels as stated above,

GST at the rate applicable under the respective Customs Tariff Headings in which they are classified will apply.

7.5. The next question to be answered is whether the replacement of parts without consideration during the warranty period constitutes a supply under the CGST Act, 2017.

7.6. A warranty is a return guarantee issued to the purchaser of the goods by its manufacturer promising to repair or replace them, if necessary, within a stipulated period. If the goods are supplied with a warranty the consideration received as part of the original supply includes the consideration for the promise to repair or replace. Hence separate consideration is not charged for warranty replacement. The supply of goods for warranty replacement is incidental to the original supply and the value of the supply made earlier includes the charges for the warranty supply also. Therefore, the supply of goods without consideration in the discharge of warranty obligation is not liable to GST. However, if any additional consideration is received in respect of such supplies of goods it will be liable to GST at the rate applicable for the goods as per the rate schedule.

7.7. The next question is whether they are eligible to avail of 18% input tax credit on the purchase of raw materials, as the manufactured products are taxable at the rate of 5%. As the output supply made by the applicant is liable to GST though at a lower rate and not exempted the applicant is eligible to avail of the credit of tax paid on inputs, input services and capital goods subject to the conditions and limitations prescribed under Sections 16, 17 and 18 of the CGST Act, 2017 and the relevant rules made thereunder.

7.8. The next question is regarding the classification of Cutlass Rubber Bush under the Customs Tariff. Cutlass Rubber Bush is an article manufactured from vulcanized rubber. Rubber and articles thereof are classifiable under Chapter 40 of the Customs Tariff. Customs Tariff Heading 4016 covers other articles of vulcanized rubber other than hard rubber and 4016 99 60 pertains to rubber

bushes. Therefore, Cutlass Rubber Bush is classifiable under CTH 4016 99 60 and is liable to GST at the rate of 18 % [CGST – 9% + SGST – 9%] as per entry at Sl. No.123 A of Schedule III of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. However, parts of goods of Heading 8901, 8902, 8904, 8905, 8906 or 8907 falling under any chapter of the Customs Tariff attract GST at the rate of 5% [CGST - 2.5% + SGST – 2.5%] as per entry at Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. Therefore, if the Cutlass Rubber Bush is supplied for use as parts of goods of Heading 8901, 8902, 8904, 8905, 8906 or 8907 the same is liable to GST at the rate of 5% as per the said entry of the notification.

RULING

In view of the observations stated above, the following rulings are issued:

Question 1: The tax rate of marine propellers, stern tube set, rudder set, SS propellers shaft, MS shaft for couplings, and intermediate cutlass rubber bushes.

Ruling: The tax rate of marine propellers, stern tube set, rudder set, SS propellers shaft, MS shaft for couplings and intermediate and cutlass rubber bushes when supplied for use as part of goods of Heading 8901, 8902, 8904, 8905, 8906 or 8907 attracts GST at the rate of 5% [CGST - 2.5% + SGST – 2.5%] as per entry at Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017.

Question 2: The parts of fishing / floating vessels come under HSN 8902. It is requested to know whether all parts of fishing / floating vessels come under Sl.No.252 of the 1st schedule or Sl. No. 371 of the 3rd Schedule?

Ruling: The goods falling under any chapter when supplied for use as parts of fishing or floating vessels coming under HSN 8902 are taxable at the rate of 5% as per entry at Sl. No.252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017.

Question 3: Whether the replacement of parts during the warranty period constitute supply under GST?

Ruling: The replacement of parts without consideration during the warranty period is not liable to GST.

Question 4: Whether eligible to avail of 18% input tax credit on the purchase of raw materials, as the manufactured products are taxable @ 5% 247/252 of 1st Schedule.

Ruling: The applicant is eligible to avail of the credit of tax paid on inputs, input services and capital goods subject to the conditions and limitations prescribed under Sections 16, 17 and 18 of the CGST Act, 2017 and the relevant rules made thereunder.

Question 5: Kindly give a ruling specifying the HSN code of cutlass rubber bush.

Ruling: Cutlass Rubber Bush is classifiable under Heading 4016 99 60 of the Customs Tariff Act, 1975.


Sreeparvathy S. L.

Additional Commissioner of Central Tax
Member


Abraham Renn S.

Additional Commissioner of State Tax
Member

To,

M/s. Bright Metal Works
Sreenanthanam, Chavara (Bridge Post),
Chavara, Kollam- 691583.

Copy to,

1. The Chief Commissioner of Central Tax and Central Excise,
Thiruvananthapuram Zone, C.R. Building, I.S.Press Road, Cochin- 682018.
[E-mail ID: cccocchin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department,

Tax Towers, Karamana, Thiruvananthapuram – 695002.

3. The State Tax Officer, Tax Payer Services Circle, Kollam West, Kollam.