
	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF: Shri. Sivaprasad.S, IRS &
:Shri. Senil A.K. Rajan.

Legal Name of the applicant	Shri. THOMAS PULLOCHERIL MATHAI, M/s. J.D. Group
GSTIN	32BPYPP7978C1Z4
Address	1/794A8, Palachuvad, Padamukal, Kakkanad, Ernakulam - 682030.
Advance Ruling sought for	Whether "Solar Freezer" and parts thereof falls under Chapter 84 of HSN as a 'Solar Power Based Device' which is covered in Sl.No.234 of 1st Schedule under Notification No.1/2017-IGST (Rate) dated 28-06-2017?
Date of Personal Hearing	22-12-2020
Authorized Representative	Stanly James, Chartered Accountant

ADVANCE RULING No. KER/121/2021 Dated 31-05-2021

Shri.Thomas Pullocheril Mathai, M/s. J.D. Group (**hereinafter referred to as the applicant**) is dealing in solar power-based devices. The applicant has launched a new product named "WATZMAN" a freezer which works on solar energy into the market. The solar freezer system consists of solar panel (PV) with railings, charge controller, connecting cables with connectors, freezer and the storage battery.

2. At the outset, 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 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;

Whether "Solar Freezer" and parts thereof falls under Chapter 84 of HSN as a 'Solar Power Based Device' which is covered in Sl.No.234 of 1st Schedule under Notification No.1/2017-IGST Rate dtd.28-06-2017?

4. Contentions of the Applicant:

4.1. The applicant submits that the solar freezer has been named under the product logo "WATZMAN". The system consists of;

(a) Freezer unit which is the storage for the materials, which they keep under desired temperature. This works on direct current (95w). It needs solar panel to get the power under sunlight and a storage battery helps to work when it is dark or while raining. The capacity of the freezer comes in several ranges: 100, 150, 200 and 268 litres;

(b) Solar Panel & Charge Controller / Accessories - The freezer unit works solely on sun power and back up with solar storage batteries. Photovoltaic energy is transferred to the freezer unit using the connectors, connecting cables and charge controller, to run / to storage cells and

(c) Battery, Battery Cabinet and connecting accessories - The power stored in battery is consumed, later by the freezer unit, when there is no sun. The whole system is kept inside the battery cabinet to protect from direct theft.

4.2. The structure and accessories of the product are installed in the premises of the buyer. Structure need to be customized depending on the location of installation (it depends whether the roof or terrain design). It can be seen from the details stated above that the product 'Solar Freezer' is solely working on the solar power generated from sun light. The system runs 24x7 on solar system with the use of appropriate batteries. It has been designed for overnight cooling. The whole system works on DC (95W) exclusively on solar power produced from the solar panels.

4.3. The GST tariff rate on goods under HSN 8418 has been cut down to 18% as per GST Council meeting held on 21st July, 2018. The details of reduced GST rate on refrigerator, freezers, water coolers, milk coolers etc is as follows:

“(i) 8418 - Refrigerators, freezers and other refrigerating or freezing equipment, electric or other, heat pumps other than air conditioning machines of heading 8415 – Rate @ 18% from 27-07-2018;

(ii) 8419 - Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electric (other than solar water heater and system) – Rate @ 18% from 14-11-2017.

(iii) 84, 85 or 94 - Following renewable energy devices and parts for their manufacture (a) Bio-gas plant, (b) Solar power based devices, (c) Solar power generating system, (d) Wind mills, wind operated electricity generator (W.O.E.G), (e) Waste to energy plants / devices, (f) Solar lantern / solar lamp, & (g) Ocean waves / tidal waves energy devices/plants – Rate 5% from 01-07-2017 as per Sl.No.234 of 1st Schedule of Notification No.1/2017 dated 28-06-2017 as corrected by M.F. (D.R) Corrigendum F.No.354/117/2017-TRU Pt dated 12-07-2017.”

4.4. After the 31st GST Council Meeting, the Ministry of Finance has not confirmed the list of solar power-based devices which would come under 5% and which under 18%. This is still not clear in the law and that’s why this application is being filed seeking to be clarified by the Advance Ruling Authority as to whether the products of the type solar freezers would be chargeable to 5%. Unless it is so declared, it is apprehended that in future, demands may be raised by the department based on their own reading and understanding of the law. The product “Solar Freezer” would qualify as a solar based power device and merit classification under HSN 84 and eligible for GST at the rate of 5%. The Notification No.1/2017-Integrated Tax (Rate) dated 28-06-2017, effective from 01-07-2017, under Sl.No.234 of 1st Schedule, notifies the integrated tax of 5% in respect of the following goods falling under Chapter 84, 85 & 94.

“Following renewable energy devices and parts for their manufacture

(a) Bio-gas plant

- (b) Solar power-based devices
- (c) Solar power generating system
- (d) Wind mills, wind operated electricity generator (WOEG)
- (e) Waste to energy plants / devices
- (f) Solar lantern / solar lamp
- (g) Ocean waves / tidal waves energy devices / plants
- (h) Photo voltaic cells, whether or not assembled in modules or made up into panels.”

4.5. In view of the above, to claim the concessional rate at 5%, the product must satisfy the conditions namely (i) it must fall under either chapter 84 or 85; (ii) it must be a solar power-based device (renewable energy device) or part thereof. Their product 'solar freezer' would qualify as a 'solar power-based device' and merit classification under HSN 84 and eligible for GST at 5% rate.

5. Contentions of the Jurisdictional Officer:

5.1. The jurisdictional officer submits that the applicant has launched a new product named "WATZMAN" a freezer which works on solar energy into the market. The unit comprises of solar power panel for generating electricity, battery unit for storage of energy, and the freezer unit. The applicant has requested a clarification as to whether the product falls under chapter 84 of HSN as a "solar power-based device" which is covered in SL No. 234 of Schedule 1 of Notification No. 01/2017 IT (Rate) dated 28.06.2017.

5.2. The supply made by the applicant consists of mainly two components, the solar power generating and storage unit and the freezing unit. While the solar power generating and storage system falls under Sl No. 234 of Schedule I of Notification No. 01/2017, the technical specifications of the freezing unit will have to be looked into to determine whether it falls under the category of solar power-based devices.

5.3. As per the details provided by the applicant, the Freezer unit (the main part) works on direct current. The very purpose of the device is refrigeration for keeping the materials under desired temperature. It is not used for energy generation. It is primarily converting solar energy into direct current for cooling purposes. Thus the device is not satisfying any conditions of energy creation or renewable energy storage or for extended use of that energy. While going

through the chapter 84, 85 or 94, the list given there under clearly indicates those devices which are used for energy conservation and storage devices for further extended usage. The principle of 'Ejusdem Generis' should be applied here, and the solar power-based devices have to be interpreted in the same manner as other things mentioned in the list. If the technical specification of the freezing unit permits it to be operated independently from the solar power energy generating unit, then the contract has to be treated as mixed supply under Section 2(74). In order to determine this evaluation by a technical expert has to be conducted. If in the opinion of the expert the Freezer unit is incapable of being used independently then the product will be taxable under Sl.No. 234 of Schedule I in Notification No. 1/2017 IGST. Otherwise the entire unit has to be taxed at 18% under HSN code 8418. Therefore, it is recommended to treat this product as a refrigerator under 8418 and fix the rate of tax as 18%.

6. Personal Hearing:

The applicant was afforded an opportunity for personal hearing on 22.12.2020. The applicant by letter dated 22.12.2020 informed the inconvenience of their representative to attend personal hearing on 22.12.2020 and requested the authority to issue the ruling based on the submissions made by them in the application.

7. Discussion and Conclusion:

7.1. The matter was examined in detail. The issue to be determined is whether the product "Solar Freezer" supplied by the applicant is eligible for the concessional rate of GST as per entry at Sl.No.234 of Schedule I of Notification No. 01/2017 Integrated Tax (Rate) dated 28.06.2017.

7.2. As per the entry at Sl No. 234 of Notification No. 01/2017 Integrated Tax (Rate) dated 28.06.2017, the following renewable energy devices and parts for their manufacture classified under Tariff Heading 84, 85 or 94 attracts GST at the rate of 5% [2.5% - CGST + 2.5% - SGST].

- (a) Bio-gas plant
- (b) Solar power-based devices
- (c) Solar power generating system
- (d) Wind mills, Wind Operated Electricity Generator (WEOG)
- (e) Waste to energy plants/devices
- (f) Solar lantern/solar lamp
- (g) Ocean waves/tidal waves energy devices/plant
- (h) Photo - voltaic cells, whether or not assembled in modules or made up into panels

An explanation was inserted in the entry by Notification No. 25/2018 Integrated Tax (Rate) dated 31.12.2018 which reads as follows;

“Explanation - If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the Notification No. 08/2017-Integrated Tax (Rate) dated 28.06.2017, the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent of the gross consideration charged for all such supplies, and the remaining thirty per cent of the gross consideration charged shall be deemed as value of the said taxable service.

7.3. “Solar power-based devices” is not defined in the GST Act, Rules or Notifications issued thereunder. As per Common / Trade parlance solar power-based devices are devices that consist of components that harness energy of the sun, convert it into electricity and use the same for powering the device. In the instant case as stated by the applicant, the main components of the solar freezer are (i) freezing unit (ii) solar panel and (iii) storage battery. It is stated by the applicant that the freezer unit work on direct current of 95W which is produced by the solar panel. The solar panels, when exposed to the sun produce energy in the form of direct current which can be measured in watts. The solar panel is capable of giving an energy output of 75W to 350W. The output of the solar panel is either directly transmitted or stored in the battery and is transmitted through the connectors to the freezing unit. Thus, the freezing unit is working on the electricity generated from solar energy and hence the freezer is a solar power-based device.

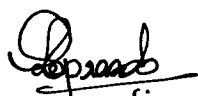
7.4. Freezers powered by any mode are classifiable under Customs Tariff Heading 8418 and the entry at Sl No. 234 of Schedule I of Notification No. 01/2017 Integrated Tax (Rate) dated 28.06.2017 provides that solar power-based devices and parts for their manufacture falling under Chapter 84, 85 or 94 attract GST at the rate of 5%. Therefore, we conclude that the product “Solar freezer” supplied by the applicant is appropriately classifiable under Tariff Heading 8418 and is liable to GST at the rate of 5% [2.5% - CGST + 2.5% - SGST] as per entry at Sl No. 234 of Schedule I of Notification No. 01/2017 Integrated Tax (Rate) dated 28.06.2017 as a solar power-based device.

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

RULING

Whether "Solar Freezer" and parts thereof fall under Chapter 84 of HSN as a 'Solar Power Based Device' which is covered in Sl.No.234 of 1st Schedule under Notification No.1/2017-IGST Rate dtd.28-06-2017?

The "Solar freezer" supplied by the applicant qualifies to be classified as a solar power-based device attracting GST at the rate of 5% [2.5% - CGST + 2.5% - SGST] as per entry at Sl No. 234 of Schedule I of Notification No. 01/2017 Integrated Tax (Rate) dated 28.06.2017.



Sivaprasad.S

Joint Commissioner of Central Tax
Member


Senil A.K. Rajan

Additional Commissioner of State Tax
Member

To

Shri. THOMAS PULLOCHERIL MATHAI,
M/s.J.D. Group,
1/794A8, Palachuvad, Padamukal,
Kakkanad, Ernakulam 682030.

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: cccochin@nic.in]
- 2) The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
- 3) The State Tax Officer -6, 2nd Circle, Kalamassery, Ernakulam. [E-mail ID:stokalamassery2@gmail.com]

