KERALA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX DEPARTMENT
TAX TOWER, THIRUVANANTHAPURAM

BEFORE THE AUTHORITY OF: Smt. Gayathri P.G., IRS &
: Shri. Abdul Latheef K.

Legal Name of the applicant	M/s. BLUE RAYS MARINE LLP
GSTIN	32AAZFB6729N1ZO
ARN No.	AD320123 0051325
Address	M/s. Blue Rays Marine LLP, 1835/28, San Clemente Building, KB Jacob Road, Fort Kochi, Ernakulam, Kerala-682001.
Advance Ruling sought for	1. Whether marine engine (falling under the Customs Tariff heading 8407) supplied for use in Fishing vessels; factory ships and other vessels for processing or preserving fishery products falling under Customs Tariff heading 8902 can be treated as parts of goods of headings 8902 attracting a GST rate of 5% (2.5% CGST + 2.5% SGST) as per Serial Number 252 of Schedule 1 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 or not? 2. Whether Gear Box Falling under goods of heading 8483, carburetor falling under goods of heading 8487 etc. (when used as part of fishing vessel of Customs Tariff heading 8902) attracts a GST rate of 5% (2.5% CGST + 2.5% SGST) as per of Schedule 1, Serial Number 252 of Notification No. 01/2017 Central Tax (Rate)

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	dated 28.06.2017 or not? 3. Whether marine engine (falling under the Customs Tariff heading 8407 and 8408) supplied for use in vessels, boat or ships falling under Customs Tariff heading 8901, 8904, 8905, 8906 and 8907 can be treated as parts of goods of headings 8901, 8904, 8905, 8906 and 8907 attracting a GST rate of 5% (2.5% CGST + 2.5% SGST) as per Serial Number 252 of Schedule 1 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 or not? 4. Applicability of GST rate of 5% on supply of material and service charges in connection with the repair and maintenance of fishing vessel of heading 8902 without considering the individual general tax rate in accordance with the entry of Schedule 1, Serial Number 252 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017.
Date of Personal Hearing	10/09/2024
Authorized Representative	Shri. K. A. Alex, Chartered Accountant

ADVANCE RULING No.KER/18/2024 Dated 29/10/2024

1. M/s. Blue Rays Marine LLP, 1835/28, San Clemente Building, KB Jacob Road, Fort Kochi, Ernakulam, (hereinafter referred to as "applicant") is engaged in the business of outboard engines and spare parts for use in fishing vessels, factory ships and other vessels for processing and preserving fishery products.

2. At the outset, the provisions of the Central Goods and Services Tax Act, 2017 *(herein after referred to as CGST Act)* and the Kerala State Goods and Services Tax Act, 2017 *(herein after referred to as KSGST Act)* are same except for certain provisions. Accordingly, a reference herein after to the provisions of

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the CGST Act, Rules and 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 sought advance ruling under section 97(1) of the CGST/SGST Act 2017 as specified above.

4. Contentions of the Applicant.

4.1. The applicant submits that they are engaged in the whole sale and retail business of outboard engines (Customs Tariff heading 8407) and spare parts (8483,9409,8487,etc) for use in fishing vessels, factory ships and other vessels for processing and preserving fishery products (8902).Their major customers are fishermen who own fishing boats.

4.2. The applicant submits that as per serial No. 252 of Schedule-1of Notification No.01/2017 CT (Rate) dated 28.06.2017, read with CBIC Circular 52/26/2018-GST dated 09.08.2018 the rate of tax of outboard engines falling under heading 8407,sold to fishermen is @ 5% and to others @ 28%. The supply to the fishermen is strictly on the basis of certificates and documents issued by both Central and State Government such as identity card, Certificate of registration, etc. to ensure the goods are actually used for the fishing purpose.

4.3. Now the applicant propose to widen their business of spare parts of fishing vessels such as Gear box, Carburetor, Propeller etc. Since the applicant has a divergent view on the rate of tax, they sought for a specific ruling with respect to the taxability on the materials and spare parts intended to be used for the purpose of fishing activities.

5. Comments of the Jurisdictional Officer

The application was forwarded to the jurisdictional officer as per provisions of Section 98 (1) of the CGST Act. The Jurisdictional officer reported that no proceedings related to issue raised in the advance ruling application pending in

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that office. Hence it is construed that no proceedings are pending on the issue against the applicant.

6. Personal hearing

The applicant was granted opportunity for personal hearing on 10/09/2024. Shri. K. A. Alex, Chartered Accountant represented the applicant for personal hearing, which was conducted virtually. The representative reiterated the contentions made in the application and requested to issue the ruling on the basis of the submissions made in the application.

7. Discussion and conclusion.

7.1. The issue was examined in detail. The application is admissible as per sub section (2) of Section 97 of the CGST Act, 2017. The first three questions raised is regarding the applicability of GST rate of 5% [CGST 2.5% + SGST 2.5%] on marine engines of Heading 8407 and 8408 and its spare parts, being supplied for use as parts of fishing vessel of heading 8902 as per the entry at Serial No.252 of Schedule I of Notification No.1/2017 CT (R) dated 28-06-2017.

7.2. The contentions were examined in the light of various entries relevant to the classification and rate of tax of marine engines and fishing and other vessels contained in Notification No. 01/2017 Central Tax (Rate) dated 28-06-2017. It is an admitted fact that the marine engines imported by the applicant are classified under Customs Tariff Heading 8407 21 00 – Outboard motors – Marine Propulsion engines – Spark-ignition reciprocating or rotary internal combustion piston engines and attracts GST at the rate of 28% as per entry at Sl No. 114 of Schedule IV of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. Fishing vessels, factory ships and other vessels for processing or preserving fishery products fall under Customs Tariff Heading 8902 and liable to GST at the rate of 5% as per entry at Sl No. 247 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. However, as per entry in Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017, parts of goods of headings 8901, 8902,

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8904, 8905, 8906, 8907 falling under any chapter of the Customs Tariff attracts GST at the rate of 5 %. Therefore, if the marine engines and its spare parts are supplied for use as part of a fishing vessel falling under Customs Tariff Heading 8902, then the marine engine and its spare parts as part of the fishing vessel will only 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. Further, we find that the question before us is already clarified by the CBIC by Circular No.52/26/2018 - GST dated 09.08.2018. The relevant paragraph 10 of the circular reads as follows;

> *"10.1 Applicability of GST on the marine engine: Reference has been received seeking clarification regarding GST rates on Marine engines. 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 GST rate of 5%, vide SL. No. 252 of Schedule I of the said notification. The Marine engine for fishing vessel falling under Tariff item 8408 10 93 of the Customs Tariff Act, 1975 would attract a GST rate of 5% as per S. 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."*

7.3. Therefore, if the marine engines and its spare parts are supplied for use as part of a fishing vessel falling under Customs Tariff Heading 8902, then it will attract GST at the rate of 5%. [2.5%-CGST + 2.5% SGST] as per entry at Sl No. 252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. However, if it is supplied for use other than as parts of goods of headings 8901, 8902, 8904, 8905, 8906 and 8907; GST at the rate applicable under the respective Customs Tariff Headings in which they are classified will apply.



7.4. The 4th question is on the applicability of GST on supply of materials and service for maintenance or repair works of fishing vessels of Heading 8902, wherein supply of spare parts and service charges is involved. The activity of rendering, repair or maintenance services of fishing vessels / boats etc involve supply of both goods / spare parts and services in conjunction and as naturally bundled in the ordinary course of business and is hence a composite supply. Unless the contract specifies that the goods and services supplied are to be separately charged, the nature of supply remains a composite supply.

7.5. The principal supply depends on the dominant element of the composite supply. Though in the process of maintenance or repair of fishing vessels there is supply of goods/spare parts, if such supply of goods/spare parts is ancillary to the repair or maintenance of the fishing vessels, the predominant element of the supply will be that of repair or maintenance and appropriately classifiable under Heading 9987 – 998714 – Maintenance and repair of transport machinery and equipment under the Scheme of Classification of Services notified as Annexure to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017. As per Notification No. 02/2021-Central Tax (Rate) dated 02.06.2021, the tax rate for the said services has been notified at the rate of 5% (2.5% CGST + 2.5% SGST), effective from 02.06.2021. This is in accordance with the insertion of entry "*(ib) Maintenance, repair, or overhaul services for ships and other vessels, including their engines and other components or parts*" under Sl. No. 25 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended from time to time. Prior to this amendment, the aforementioned services were classified under Sl. No. 25(ii) of Notification No. 11/2017-Central Tax (Rate) and were subject to a tax rate of 18% (9% CGST + 9% SGST). Whenever there is a change in the rate of tax for the supply of goods or services, Section 14 of the CGST Act determines the time of supply, which is crucial for applying the appropriate tax rate. Section 14 of the CGST Act is reproduced below;

14. Change in rate of tax in respect of supply of goods or services.—

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Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

(a) in case the goods or services or both have been supplied before the change in rate of tax,—

(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

(b) in case the goods or services or both have been supplied after the change in rate of tax,—

(i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

(ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Explanation:—For the purposes of this section, "the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the

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supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Accordingly, if the time of supply of said services falls prior to 2nd June, 2021, it would be taxable at the rate of 18% (9% CGST + 9% SGST). However, if the time of supply falls on or after 2nd June 2021, the services will be taxable at the rate of 5% (2.5% CGST + 2.5% SGST).

Given the observations stated above, the following rulings are issued;

RULING

Question No. 1. Whether marine engine (falling under the Customs Tariff heading 8407) supplied for use in Fishing vessels; factory ships and other vessels for processing or preserving fishery products falling under Customs Tariff heading 8902 can be treated as parts of goods of headings 8902 attracting a GST rate of 5% (2.5% CGST + 2.5% SGST) as per Serial Number 252 of Schedule 1 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 or not?

RULING: The marine engines and their spare parts, when supplied for use as part of a fishing vessel classified under Customs Tariff Heading 8902, will be subject to GST at the rate of 5% (2.5% CGST + 2.5% SGST) as per Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. However, if these items are supplied for use in any application other than as parts of goods classified under headings 8901, 8902, 8904, 8905, 8906, and 8907, the applicable GST rate will be determined based on the relevant Customs Tariff Heading under which they are classified.

Question No. 2. Whether Gear Box Falling under goods of heading 8483, carburetor falling under goods of heading 8487 etc. (when used as part of fishing vessel of Customs Tariff heading 8902) attracts a GST rate of 5% (2.5% CGST + 2.5% SGST) as per of Schedule 1, Serial Number 252 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 or not?

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RULING: The gearbox, classified under Customs Tariff Heading 8483, when supplied for use as part of a fishing vessel under Customs Tariff Heading 8902, will attract GST at the rate of 5% (2.5% CGST + 2.5% SGST) as per Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. However, if the same is supplied for any purpose other than as part of goods falling under headings 8901, 8902, 8904, 8905, 8906, or 8907, the applicable GST rate will be based on the specific Customs Tariff Heading under which the gearbox is classified.

Question No. 3. Whether marine engine (falling under the Customs Tariff heading 8407 and 8408) supplied for use in vessels, boat or ships falling under Customs Tariff heading 8901, 8904, 8905, 8906 and 8907 can be treated as parts of goods of headings 8901, 8904, 8905, 8906 and 8907 attracting a GST rate of 5% (2.5% CGST + 2.5% SGST) as per Serial Number 252 of Schedule 1 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 or not?

RULING: The marine engine, classified under Customs Tariff Heading 8407 and 8408, when supplied for use as part of a fishing vessel under Customs Tariff Heading 8902, will attract GST at the rate of 5% (2.5% CGST + 2.5% SGST) as per Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. However, if the same is supplied for any purpose other than as part of goods falling under headings 8901, 8902, 8904, 8905, 8906, or 8907, the applicable GST rate will be based on the specific Customs Tariff Heading under which the gearbox is classified.

Question No. 4. Applicability of GST rate of 5% on supply of material and service charges in connection with the repair and maintenance of fishing vessel of heading 8902 without considering the individual general tax rate in accordance with the entry of Schedule 1, Serial Number 252 of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017.

RULING: If the time of supply of the said services, as determined in accordance with Section 14 of the CGST Act, falls prior to 2nd June 2021, the services will

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be taxable at the rate of 18% (9% CGST + 9% SGST). However, if the time of supply falls on or after 2nd June 2021, the applicable tax rate will be 5% (2.5% CGST + 2.5% SGST).

Gayathri P.G., IRS
Joint Commissioner of Central Tax
Member

Abdul Latheef K.
Joint Commissioner of State Tax
Member

To,

M/s. Blue Rays Marine LLP,
1835/28, San Clemente Building,
KB Jacob Road, Fort Kochi, Ernakulam, Kerala-682001.

Copy submitted 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; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Commissioner of Central GST and Central Excise, Cochin Commissionerate.

Copy to :

1. The Additional Commissioner, TPS, HQ, Thiruvananthapuram.
2. The Deputy Commissioner, ITMD, Thiruvananthapuram.
3. The State Tax Officer, Tax payer services Circle, Cochin.
4. The Supdt. Central Tax, Ernakulam Division, Ernakulam Range-1.

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