

GIB/GJ/TRELLEBORG MARINE/27.01.2021/AAR-446

Advance Ruling Category : Classification of good

State : Gujarat

Order No.: GIB/GJ/TRELLEBORG MARINE/27.01.2021/AAR-446

Name of Entry :

M/S. TRELLEBORG MARINE SYSTEMS INDIA PVT. LTD.

Date : 27-01-2021

Breif Issue :

FACT OF THE CASE

In the above case the applicant M/s. Trelleborg Marine Systems pvt Ltd. is engaged in the business of trading of products like fixtures, buoys, bollards, frontal frames and fascia pads which are made mainly from iron and steel, barring fascia pads which are made from plastics and these products are primarily used at port/jetty as support infrastructure.

The applicant has submitted that under the erstwhile Indirect tax regime, the applicant was subjected to the levy of Value Added Tax and Central Sales Tax (hereunder referred to as 'VAT' and 'CST' respectively); that the applicant, being a trading entity, was not required to be registered under the Central Excise legislation; that since, the classification under Gujarat VAT is not derived by any Harmonized System of Nomenclature ('HSN') except for specific/few goods, classification adopted by Applicant was a subject matter of dispute between VAT authorities and the Applicant; that under the classification mechanism provided under Gujarat VAT legislation, there were two predominant rates of VAT in force viz. 5% (4% + 1% additional tax) and 15% (12.5% + 2.5% additional tax) and for the former category, goods were specifically enlisted whereas the latter tax rate applied as a residual tax rate on all other goods; that in the erstwhile regime, the applicant had classified each product under its specific category provided under 5% tax rates but this classification was disputed by the VAT Department, without providing sufficient grounds for substantiation; that subsequent to the change in the Indirect tax legislation and considering the way in which the manner for classifying goods and services has undergone a change, they seek to understand the correct classification of their products under the GST regime.

Decision of Advance Ruling Authority :

ISSUE OF THE CASE WITH DECISION

Question-1(Part-A) –What would be the classification of the following products under GST

and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).

- **Bollards** – ‘Bollards’ would be rightly covered under Tariff heading 73259999 - N/N. 01/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time), Sub-heading 7325 finds mention at Entry No.237 of Schedule-III of the said notification wherein the GST liability is 18%.
- **Bolts, nuts, screw, washer etc. known as fixtures** - Fixtures such as bolts, nuts, screws and washers are specifically covered under the aforementioned sub-heading 7318 of the First Schedule to the Customs Tariff Act, 1975 - The goods finds place in Sub-heading 7318 which finds mention at Entry No.232 of Schedule-III of the said notification on which GST liability is 18%.
- **Frontal Frames** -Looking to the description of the product given by the applicant as well as the photographs of the Frontal frames provided by the applicant and comparing the same to the above, it appears that the said product will be rightly covered under Sub-heading 7326 and specific tariff heading 73269080 of the First Schedule to the Customs Tariff Act, 1975 - The goods as per Notification No.01/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time) is found under Sub-heading 7326 finding mention at Entry No.238 of Schedule-III of the said notification on which GST liability is 18%
- **Pads – UHMW PE pads** -Tariff heading 3920 covers plates, sheets, film, foils and strips of plastics combined with other materials and Tariff heading 392010 covers sheets of polyethylene. Images of UHMW PE pads (as obtained from internet) are placed above. Also, as described by the applicant, fascia pads are made of high quality of plastics (polyethylene) and are applied on the frame structure on which vessels/ship hull touches - the ‘Fascia pads’ which are sheets of polyethylene (made from polymers of ethylene) would be rightly classifiable under the Tariff heading 39201099 of the First Schedule to the Customs Tariff Act, 1975 - Sub-heading 3920 finds mention at Sr.No.106 of Schedule-III of the said notification on which GST liability is 18%.
- **Buoys** -The said product rightly merits classification under the Tariff Heading 89079000 of the First Schedule to the Customs Tariff Act, 1975 - Sub-heading 8907 finds mention at Sr.No.251 of Schedule-I of the said notification on which GST liability is 5%.
- **Chains/Swivel/D-Shackle/Chain tensioner** -There is no specific entry for the products i.e. swivel, shackles and chain tensioner under the said sub-heading - chains would be rightly classifiable under Tariff heading 73158900 whereas dshackles and swivels would be rightly classifiable under Tariff heading 73159000 (being parts or accessories). However, since we do not find any specific mention of chain tensioners anywhere, we find it necessary to know what a chain tensioner is. We therefore, find it prudent to refer to the definition of a ‘chain tensioner’ as per the dictionary - The said product is a device which forms a part or accessory to a chain which adjusts slackness in the chain to enable continuous and proper chain operation and would therefore be rightly classifiable under Tariff heading 73159000 of the First Schedule to the Customs Tariff Act, 1975 - Sub-heading 7315 finds mention at Sr.No.229 of Schedule-III of the said notification on which GST liability is 18%.

- **Rubber Fender (both types)** - The said product rightly merits classification under the Tariff Heading 40169400 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975) which reads as **Boat or dock fenders, whether or not inflatable** - Sub-heading 4016 finds mention at Sr.No.49 of Schedule-IV of the said notification on which GST liability is 28% - the rate of GST in respect of the aforementioned sub-heading i.e. 4016 will be 28% (14% SGST + 14% CGST) upto 14.11.2017 and 18% w.e.f. 15.11.2017 after amendment.

Question-2(Part-B): Whether supply of few products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.01/2017 dated June 28, 2017 (as amended)?

Answer: Supply of products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a mixed supply for the reasons discussed hereinabove. The said 'mixed supply' can be classified as supply of any of the three supplies i.e. Frontal frames (Tariff heading 73269080) OR Fascia pads (Tariff heading 39201099) OR Fixtures (Tariff heading-73181500/73181600/73182200), for the reasons discussed hereinabove and the GST applicable thereon will be 18%(9% SGST + 9% CGST).

Question-3(Part-C): Whether supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.1/2017 dated June 28, 2017 (as amended)?

Answer: Supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would not qualify as a composite supply or a mixed supply for the reasons discussed hereinabove. Accordingly, the second part of the question becomes 'not applicable',

Question-4(Part-D): Whether supply of installation service where usage of chemical is essential to provide effective service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax thereon in accordance with Notification No.11/2017 dated June 28, 2017 (as amended)?

Answer: Supply of installation service where usage of chemical is essential to provide effective service, qualifies as 'Composite supply' for the reasons discussed hereinabove. The said 'Composite supply' will be classified as 'Installation Services (other than Construction) (Service Code-998739) and the GST applicable thereon will be 18% (9% SGST + 9% CGST).