Jotun India Pvt. Ltd. (Appellant)

Appellate Authority for Advance Ruling — Maharashtra

ORDER NO. MAH/AAAR/SS-RJ/17/2018-19 Date- 05.02.2019 Dated **05.02.2019**

Q Questions Before the Authority

- Whether marine paints supplied by the appellant would be considered to be part of a ship and, accordingly, be classified under Sl. No. 252 of Schedule I of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017.

F Facts

Jotun India manufactures and supplies paints and powder coatings, including marine paints used on ships during building and maintenance, such as anti-fouling and corrosion-protective coatings. The appellant argued that these paints are parts of ships and so fall under Sl. No. 252 of Schedule I (2.5% CGST), rather than under Chapters 3208 and 3209. The Advance Ruling Authority rejected that claim, and the appellant appealed.

H Ruling

Whether marine paints supplied by the appellant are part of a ship and so classifiable under Sl. No. 252, Schedule I, Notification 1/2017-CT(Rate)	**No. Appeal dismissed; AAR ruling dated 19.05.2018 upheld**	The order has no separate RULING section; this row is taken from the final ORDER paragraph (para 59). Para 47 records the paints as falling under Chapters 3208 and 3209, at 28% under Schedule IV, as the AAR had held. The order does not restate that rate as its own holding.

The Appellate Authority **dismissed the appeal** and upheld the Advance Ruling Authority's order dated 19.05.2018, finding no reason to interfere. Marine paints are **not parts of a ship** and cannot be classified under Sl. No. 252 of Schedule I. The authority held that paints are standalone commodities with independent existence and use, and that a ship can sail without them.

R Reasoning

The authority read 'part' as an integral component without which the whole article would not be complete, drawing on Black's Law Dictionary and the Cambridge English Dictionary. It held that a ship can be completed and can function without marine paint, which only adds to its life and efficiency. It rejected the argument that mandatory anti-fouling requirements under the Merchant Shipping Act, 1958 make paint a part, since a mandatory requirement under another law is not an adequate basis for classifying a product as a part. The authority distinguished Star Paper Mills, Surgichem and Eastend Paper as marketability cases under Central Excise, and applied the independent-existence and use test from Jayanand Khira and Free India Cycle, together with Khushbakht Electronics.

P Provisions Relied On

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

Section 100 and Section 101 of the CGST Act, 2017 and MGST Act, 2017

Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Schedule I, Sl. No. 252 and Sl. Nos. 246 to 251

Notification No. 1/2017-Central Tax (Rate), Schedule IV (as recorded at para 47)

Chapter headings 3208 and 3209 of the Customs Tariff

Chapter 89 headings 8901, 8902, 8904, 8905, 8906 and 8907

Sections 356P(1), 356Q(a), 356R and 356X of the Merchant Shipping Act, 1958 (as quoted by the appellant and considered…

! For the Practitioner

This order is useful for manufacturers of marine coatings and for anyone seeking the Sl. No. 252 parts-of-ship rate. It settles that paint applied to ships is not a 'part' merely because it is mandatory under another law or is needed for marketability. It does not decide the correct classification or rate on the merits beyond upholding the AAR. It also does not address the appellant's natural justice ground, or its arguments based on the erstwhile excise exemptions and UK VAT, which the order does not expressly deal with.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> jotunindia-pvt-ltd.pdf

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