M/s Bharat Electronics Limited., Jalahalli, Bengaluru - 560013 (GSTIN 29AAACB5985C1ZL)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 21 / 2019, Date: 26-08-2019 Dated **26.08.2019**

Q Questions Before the Authority

- Whether the various systems, sub-systems and onboard spares supplied by the applicant for use in the Warships, Vessels and Submarines meant for Indian Navy and Shipbuilders attract 5% GST?

F Facts

The applicant is a Government of India enterprise under the Ministry of Defence that manufactures defence systems such as fire control, radar, missile and communication systems. It supplies these against purchase orders from shipbuilders (including Mazagon Dock, Garden Reach and Hindustan Shipyard) and directly to the Indian Navy, with the systems meant for use on board ships. Its contracts also include installation, commissioning, training and rehosting of test programmes.

H Ruling

Systems, sub-systems and onboard spares supplied for use in warships, vessels and submarines for the Indian Navy and shipbuilders	**Covered by Sl. No. 252 of Schedule I, Notification 01/2017-Central Tax (Rate) dated 28.06.2017; attracts 5% GST**	Excludes consumables and raw materials, which are not parts of warships. Applies to items that qualify as parts of goods under headings 8901, 8902, 8904, 8905, 8906 and 8907.

The Authority ruled that the various systems, sub-systems and onboard spares supplied for use in warships, vessels and submarines for the Indian Navy and shipbuilders are covered by Sl. No. 252 of Schedule I to Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017. On that basis they attract 5% GST. The ruling expressly excludes consumables and raw materials, which do not qualify as parts of warships.

R Reasoning

The Authority treated the supply as a composite supply under Section 2(30) and Section 8(a) of the CGST Act, with the goods (the systems) as the principal supply, so the tax follows the goods. It noted that Chapter 89 of the Customs Tariff makes no provision for parts of ships, so parts are classified elsewhere, and that Sl. No. 252 uses the column entry 'Any Chapter'. It held that systems fitted to ships and essential to their functioning are parts of warships under heading 8906. It then concluded that consumables and raw materials do not meet that test and fall outside the entry. The Authority also relied on the Explanations (iii) and (iv) to the notification, which import the Customs Tariff interpretation rules and Section XVII notes, and on the HSN explanatory notes.

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

P Provisions Relied On

- Section 2(30) CGST Act 2017 (composite supply)
- Section 2(74) CGST Act 2017 (mixed supply)
- Section 8 CGST Act 2017 (tax liability on composite and mixed supplies)
- Section 97 CGST Act and KGST Act 2017 (advance ruling)
- Rule 104 CGST Rules 2017 and KGST Rules 2017
- Sl. No. 252, Schedule I, Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, and the corresponding Integrated Tax…
- Explanations (iii) and (iv) to Notification 01/2017-Central Tax (Rate)
- Section XVII and Chapter 89 Notes, Customs Tariff Act 1975, and HSN explanatory notes
- Notification 12/2012-Cus (Sl. No. 469) and Notification 50/2017-Cus (Sl. No. 559), as relied on by the applicant
- Notification 12/2012-CE (entry 306C), Notification 64/95-CE (Sl. No. 21) and Notification 82/84-CE, as relied on by the applic…
- Case law relied on by the applicant: Mehra Brothers (SC), Pragati Silicones (SC), Pelican Rubber (CESTAT), Brahmos Aeros…

! For the Practitioner

This ruling helps defence and shipbuilding suppliers who supply onboard systems for warships, vessels and submarines, as it places such parts under the 5% entry. A practitioner can rely on it for similar naval supplies, but it does not decide the rate for consumables or raw materials, which the order carves out. It also does not address any exemption under the earlier Customs or Central Excise notifications, which the applicant argued only in support. The reasoning is specific to the applicant's contracts and facts, so the order should be read in full before it is cited for a different product or buyer.

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 -> kar aar 21 2019 bel 26.08.19.pdf

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