C S Diesel Engineering Private Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-102/2018-19/B-28, Mumbai, dated 14.03.2019 (date as read… Dated **14.03.2019**

Q Questions Before the Authority

- Whether the main propulsion engine for ships under HSN 8408 1093, marine gear box under heading 8483, marine generator under 8502 1100, and marine engine for other applications such as pumps under 8408 10 would be considered parts of goods for Chapter 89.
- Whether goods used in manufacturing boats or ships under headings 8901, 8902, 8904, 8905, 8906 and 8907 would be charged at 5% even where the GST rate in their own chapters is higher (e.g. 28% for HSN 8408 10 93).
- Whether the dealer's invoice to the shipyard would be made under the respective product chapter but at 5% GST (e.g. HSN 8408 1093 at 5% instead of 28%), and likewise for chapters 8483 and 8502 1100.
- Whether, as a generator manufacturer buying marine engines from Ashok Leyland, the applicant could buy under 5% GST on an undertaking to supply generators to a named shipyard against a hull number, shipyard order copy and covering letter.
- Whether, when the applicant sells an engine to a shipyard for main propulsion and buys it from Ashok Leyland, it could buy at 5% GST on an undertaking to supply the engine to a named shipyard against a hull number, shipyard order copy and covering letter.

F Facts

The applicant is an authorised dealer for Ashok Leyland marine engines, imports marine gear boxes, and manufactures marine generators. It supplies marine engines, gear boxes and generators to shipyards and ship owners who fit them on boats and ships, and it also consumes marine engines as inputs for its own generators. It contends that these goods are parts of vessels under headings 8901 to 8907 and so attract 5% under Sr. No. 252 of Notification 1/2017-CT (Rate). The jurisdictional officer disputed this, citing the risk of diversion to generator manufacture and the absence of documentary evidence.

H Ruling

Q1: Whether main propulsion engine (8408 1093), gear box (8483), generator (8502 1100) and pump engines (8408 10) are parts of goods for Chapter 89	**Yes, answered in the affirmative: the goods supplied by the applicant would be considered parts of goods for Chapter 89.**	The authority reasoned from the dictionary meaning of 'part' and found these items essential to the functioning of a ship.

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

Q2: Whether goods used in building boats or ships under 8901, 8902, 8904, 8905, 8906 and 8907 attract 5% even where their own chapter rate is higher	**Yes, answered in the affirmative: such goods attract 5% by application of Notification 1/2017-CT (Rate), even where their GST rate would otherwise be higher.**	Applies only where the goods are used in the listed headings; the order says benefit is lost if they are diverted to other uses.
Q3: Whether the dealer's invoice to the shipyard is made under the product chapter but at 5% GST	**Yes, answered in the affirmative.**	The order uses the HSN 8408 1093 example, with the same treatment for 8483 and 8502 1100.
Q4: Whether the applicant can buy generator engines from Ashok Leyland at 5% on an undertaking and shipyard documents	**Not answered.**	The order says the question concerns Ashok Leyland's supply and is outside the authority's purview under Sections 95 and 97. The reasoning says 'in view of above discussions', so the reason given is not fully consistent.
Q5: Whether the applicant can buy main propulsion engines from Ashok Leyland at 5% on an undertaking and shipyard documents	**Not answered.**	Same ground as Q4: the supplier-side transaction is outside Sections 95 and 97.

The authority held that marine propulsion engines, marine gear boxes and marine generators supplied by the applicant are parts of ships, boats and vessels under headings 8901, 8902, 8904, 8905, 8906 and 8907, and so attract 5% (2.5% CGST and 2.5% SGST) under Sr. No. 252, provided they are used in those goods and not diverted. The authority declined to answer questions 4 and 5, which concern supplies by Ashok Leyland, as outside its jurisdiction under Sections 95 and 97.

R Reasoning

The authority relied on the dictionary meanings of 'part' and held that the engines, gear boxes and generators are integral to a ship, cannot be imagined without them, and can be separated for repair. It therefore treated them as parts of vessels under Sr. No. 252, which covers parts of goods of headings 8901 to 8907 at 2.5% CGST and SGST. The concessional rate depends on end use, so the authority conditioned the ruling on the goods not being diverted to other purposes such as generator manufacture. It considered the officer's objection but found it unpersuasive given the usage certificate from the shipyard, and followed its earlier Shandong Heavy Industries ruling of 15.06.2018. The ruling also refers to Circular 52/26/2018-GST dated 09.08.2018 (paras 10.1 and 10.2) on marine engines for fishing vessels.

P Provisions Relied On

- Section 97 and Section 98 of the CGST Act, 2017 and the MGST Act, 2017
- Section 95 of the CGST Act, 2017 (scope of advance ruling)
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Schedule I, Sr. Nos. 246 to 252 (Sr. No. 252 is the key entry)
- Notification No. 1/2017-Central Tax (Rate), Schedule IV, Sr. Nos. 115, 116 and 135 (14% CGST and SGST for 8408, 8409 a…

Notification No. 1/2017-Central Tax (Rate), Schedule III, Sr. No. 373 (generating sets, heading 8502)

Circular No. 52/26/2018-GST dated 09.08.2018, paras 10.1 and 10.2

Maharashtra AAR order in the case of Shandong Heavy Industries India Pvt Ltd dated 15.06.2018

Customs Tariff headings 8408, 8483, 8502 and 8901 to 8907

! For the Practitioner

This order is useful for shipyard suppliers of marine engines, gear boxes and generators, because it accepts that these goods are parts of vessels and can attract the 5% rate under Sr. No. 252 if used in headings 8901 to 8907. It does not decide the supplier-side questions (Q4 and Q5), so a dealer seeking a 5% purchase from a manufacturer must still find another route. The benefit is also conditional on proof of end use, and the officer's diversion concern means the buyer should keep shipyard orders, hull numbers and usage certificates. The order binds only the applicant, and it can be appealed to the Maharashtra Appellate Authority for Advance Ruling.

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 -> ara_order_102_2018_maharashtra_csdepl.pdf

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