Cummins India Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-66/2018-19/B-162, Mumbai Dated **19.12.2018**

Q Questions Before the Authority

- Whether engines manufactured and supplied solely and principally for use in railways/locomotives are classifiable under HSN Heading 8408 or under HSN Heading 8607 of the Customs Tariff (borrowed for GST classification) as parts used solely or principally for Railways or Tramway Locomotives or Rolling Stock?
- Whether availment of input tax credit on common input supplies on behalf of other units registered as distinct persons, and further allocation of the cost incurred for the same to those units, qualifies as a supply and attracts GST?
- If GST is leviable, whether the assessable value can be determined by arriving at a nominal value?
- Once GST is levied and ITC is availed by the recipient unit, whether the applicant is required to register itself as an Input Service Distributor (ISD) for distribution of ITC on common input supplies?

F Facts

Cummins India Limited manufactures diesel engines and parts, and some engines are made to railway or locomotive manufacturers' designs for use only in railway locomotives. The company has multiple GST registrations across states, and its Pune head office procures common input services, takes the ITC, and recovers the cost from other registered units. The applicant asked whether this inter-unit recovery is a taxable supply, how it should be valued, and whether it must register as an ISD.

H Ruling

Classification of railway/locomotive engines (HSN 8408 or 8607)	**Classifiable under HSN Heading 8408**	Engines are not 'parts' of Chapter 86 goods. Section XVII Note 2(e) excludes machinery of headings 8401 to 8479 from 'parts', and Heading 8607 does not cover engines of any type.
Whether ITC availed on common input supplies for other distinct-person units, with cost allocation, is a supply attracting GST	**Yes**	The units are distinct persons under Section 25, so the inter-unit supply falls within Section 7 read with Schedule I, entry 2, even without consideration.
Whether assessable value can be fixed by arriving at a nominal value	**No. Value is to be determined under Rule 30 of the CGST Rules, 2017**	Rule 30 applies because cost of production is available. The value is 110% of cost of production or manufacture, so the applicant's nominal-value request was not accepted.
Whether applicant must register as an Input Service Distributor once ITC is distributed	**Yes. Registration as ISD is required under Section 24**	Section 24(viii) makes an Input Service Distributor compulsorily registrable, so ISD registration is not an optional facility.

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

The authority held that the engines manufactured and supplied solely and principally for railway and locomotive use are classifiable under **HSN Heading 8408** , not 8607. It held that availment of ITC on common input services for distinct-person units and the related cost allocation is a **supply attracting GST** . It held that the value is to be determined under **Rule 30 of the CGST Rules, 2017** , not by a nominal value. It held that once the ITC is distributed, the applicant **must register as an ISD** under Section 24.

R Reasoning

On classification, the authority read Section XVII Note 2(e) as excluding compression-ignition engines of heading 8401 to 8479 from 'parts', and noted that Chapter 86 Note 2 does not list engines under Heading 8607. It also relied on the different weight-based and number-based assessment of the two headings. On the inter-unit recovery, it held that Section 25 makes each registration a distinct person and that Section 7 with Schedule I, entry 2 treats such supplies as taxable. For value, it held that Rule 28 and Rule 31 could not apply because no open-market value existed, so Rule 30 governs. On ISD, it read Section 24(viii) as mandatory where credit is to be distributed to distinct persons.

P Provisions Relied On

Section 7 of the CGST Act, 2017 and Schedule I, entry 2	Section 24(viii) of the CGST Act, 2017
Section 25 (including 25(4)) of the CGST Act, 2017	Section 17 of the CGST Act, 2017
Section 20 of the CGST Act, 2017	Rule 28, Rule 30 and Rule 31 of the CGST Rules, 2017
Section XVII Note 2(e) and Note 3 of the Customs Tariff (borrowed for GST classification)	
Chapter 86 Note 2 of the Customs Tariff	
Circular No. 30/4/2018-GST dated 25 January 2018 (discussed in the order)	

! For the Practitioner

This ruling is useful for manufacturers of engines or parts sold for railway use, since it places such engines under Heading 8408 and not Chapter 86, which affects the GST rate. It also confirms that inter-unit recovery of common input service costs between distinct-person registrations is a taxable supply valued under Rule 30, and that ISD registration is mandatory for such distribution. It does not decide whether a sole-use argument could succeed for a different product, and it is an advance ruling binding only on the applicant, with appeal lying to the Maharashtra Appellate Authority.

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_66_2018_maharashtra_cil.pdf

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