

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 8th floor, H -wing, New building, Mazgaon, Mumbai-400010.
(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)
BEFORE THE BENCH OF

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAACC4519R1Z9
Legal Name of Applicant	C S DIESEL ENGINEERING PRIVATE LIMITED
Registered Address/ Address provided while obtaining user id	15 QRGH , Laxmi Industrial Estate New Link Road , Andheri west , Mumbai Suburban Pin Code 400053, Maharashtra
Details of application	GST-ARA, Application No. 102 Dated 18.12.2018
Concerned officer	Division - III, Mumbai West Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory/Manufacturing , Retail Business
B Description (in brief)	Authorized Dealers for Ashok Leyland Marine Engines and Imported Marine Gear Boxes and Manufacturer for Marine Generators.
Issue/s on which advance ruling required	(i) classification of goods and/or services or both (ii) Applicability of a notification issued under the provisions of this Act (v) Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by M/s C.S. DIESEL ENGINEERING PRIVATE LIMITED, seeking an advance ruling in respect of the following questions.

- Please confirm that Main Propulsion engine for ships falling under HSN code 8408 1093, Marine Gear box falling under heading 8483 and marine generator falling under 8502 1100 and Marine engine for other applications like pumps falling under 8408 10 would be considered as parts of Goods for Chapter 89.
- Further if the all above used in manufacturing of the boat/ ships under chapter 8901/8902/8904/8905/8906 / 8907 shall be charged with 5% even if in their respective chapters, the rates of GST are higher. For example, GST for HSN code 8408 10 93 is 28%, but when supplied to shipyards would be 5% and also implied for chapters 8483 and 8502 1100 above

3. Also the invoice made by the dealer to the shipyard would be made under the respective product chapter, but with only 5%, for example marine main propulsion engines would be made with 5% GST under HSN code 8408 1093 and not 28%. And also implied for chapters 8483 and 8502 1100 above.
4. As a generator manufacturer, when we buy a marine Engine from our principles (Ashok Leyland here) then we could buy under 5% GST with them using HSN code of 8408 1093 and with our letter of undertaking stating that we shall be supplying these Generators to marine Shipyard with Hull number (which is always unique) for that project with shipyard order copy and also a covering letter from the shipyard for the same subject matter and yard number (which is always unique). With all this can we get the supplies from Ashok Leyland at 5% GST?
5. When we have to sell an engine to shipyard for main Propulsion, we buy it from Ashok Leyland. under that context could we buy the engines with our letter of undertaking stating that we shall be supplying these engines to marine Shipyard name and Hull number (which is always unique) for that project and with shipyard order copy and also a covering letter from the shipyard for the same subject matter and yard number (which is always unique). With all this can we get the supplies from Ashok Leyland at 5% GST?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further for the purposes of this advance ruling, a reference to “GST Act” would mean CGST Act or the MGST Act.

FACTS AND CONTENTIONS – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

STATEMENT OF RELEVANT FACTS HAVING A BEARING ON THE QUESTION(S) ON WHICH ADVANCE RULING IS REQUIRED.

1. Marine Engines fall under sub-heading 8408 10 (for other application on marine boats like pumps etc.) where for main Propulsion would fall under tariff item 8408 1093.
2. Marine Gear box fall under heading 8483.
3. Marine generator fall under tariff item 8502 1100.
4. Ship Boats and floating structure fall under chapter 89 which is applicable mainly for shipyards and all parts of the goods supplied to shipyard who are building their boat/ships under headings 8901, 8902, 8904, 8905 and 8906 would be charged 5%.
5. As per Sr. No. 247 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017, all the boats built under tariff headings 8901, 8902, 8904, 8905 and 8906 would attract a GST rate of 5%.
6. Further also all the parts of goods falling under tariff headings 8901, 8902, 8904, 8905 and 8906 would attract a GST rate of 5% as per S. No. 247 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017.



7. Further as per Circular No. 52/ 26 / 2018- GST, FN No 354/225/2018-TRU (Part (2) dated 9th August 2018, as per the clause number 10.1 and 10.2, marine engines are a parts of good for fishing vessels built under 8902.
8. Confirmation given by the Assistant Commissioner of Mandal 4, Division IV Madgaon Goa to Vijai Marine shipyard regarding parts of goods falling under any chapter and supplied to shipyard who will be manufacturing the boats under headings 8901, 8902, 8904, 8905, 8906 and 8907 should be charged 5%.
9. As per Maharashtra Authority of Advance Ruling order passed on the 15/06/2018, marine propulsion engines and marine gear box (mentioned in point no 1 and 2) are parts of goods for headings 8901, 8902, 8904, 8905, 8906 and 8907 .

Additional submissions—

We are authorized dealers for Ashok Leyland Marine engines business. We supply Marine Engines, Marine Gearbox and Marine Generator to Shipyards and ship owners who fit these on their ships.

Back ground –

1. Marine Engines fall under sub-heading 8408-10 (for other application on marine boats like pumps etc.) where for main Propulsion would fall tariff item 8408 1093
2. Marine Gear box fall under heading 8483
3. Marine generator fall under tariff item 8502 1100
4. Ships, Boats and floating structures fall under chapter 89 which is applicable mainly for shipyards; all the parts of goods supplied to shipyard and who are building their boats/ships under headingschapter 8901, 8902, 8904, 8905, 8906 and 8907 would be charged 5%.

As per Sr. No. 247 of Schedule 1 of the notification No: 01/2017-Central Tax (rate) dated 28.06.2017, all the boats built under tariff headings 8901, 8902, 8904, 8905, 8906 and 8907 would attract a GST rate of 5%.

6. Further , all the parts of goods falling under tariff headings 8901, 8902, 8904, 8905, 8906 and 8907 would attract a GST rate of 5% as per S. No. 247 of Schedule 1 of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017
7. Further as per circular no 52 / 26 / 2018- GST, EN NO 354/225/2018-TRU(Part (2) dated 9th August 2018, as per the clause number 10.1 and 10.2, marine engines are a parts of goods for fishing vessels built under heading 8902.
8. Confirmation given by the Assistant Commissioner of Mandal 4, Division IV Madgaon Goa to Vijai Marine shipyard regarding parts of goods falling under any chapter and supplied to shipyard who will be manufacturing the boats under headings 8901, 8902, 8904, 8905, 8906 and 8907 should be charged 5%.
9. As per Maharashtra Authority of Advance Ruling order passed on the 15/06/2018, marine propulsion engines and marine gear box (mentioned in point no 1 and 2) are parts of goods for headings 8901, 8902, 8904, 8905, 8906 and 8907. We wish to have a confirmation and clarifications on the above said points:



Additional submission given by the applicant on the basis of usage and certification of actual user on dt.1.3.2019.

“ **Subject:** Clarifications regarding use of marine diesel engines on the boat and a support letter from Shipyard.

Further to the above subject, we have been asked to submit the details of the usage of the diesel engines on a boat/ship/ vessel which is purchased by a shipyard while manufacturing. We have also enclosed a letter from a shipyard as a proof of support on the subject.

The application of diesel engine are as follows

- i. Main Propulsion engines for driving the boat/ships
- ii. Diesel Generator
- iii. Engine driven Pumps for
 - A. Firefighting in the boat/ships or special boats/ ships meant for fire fighting
 - B. Bilge Pumps
 - C. Bow thruster
 - D. Winch driving for applications like oil spill vessels wheel of pipe, ship anchor etc.
 - E. Hydraulic Pump and Power packs driving for various application including dredgers
- iv. Directly driven assemblies like
 - a. Winches
 - b. Pipes laying machines
 - c. Cranes.

Please do inform if you need any clarifications and we shall be glad to support.”

The letter received from M/s A.G. ROY & GO. DIAMOND HERITAGE BUILDING", 16 STRAND ROAD, ROOM NO 1505. KOLKATA - 700 001, Ref.: ACD/281/V/2018-2019, Date: 28.02.2019 is reproduced as below.

“ Sub: Clarification asked by C.S .Diesel Engg. Pvt Ltd about the application usage of Diesel Engine Marine Gearbox during the building the boats/ ships / vessels.

C.S Diesel Engg. Pvt Ltd, is our supplier for Diesel Engines, Marine Gearbox and Marine Generators which are fitted on boats/ ships /vessels, manufactured by us. They have approached us asking for the exact use of the products as stated above so that a clear understanding is obtained to represent them as a parts of goods for the chapter 89 could be established by the Advance ruling authority for GST rate. We wish to inform as follows -

- 1 Compression – ignition IC piston engines (diesel or semi diesel) would fall under 8408 chapter for Marine application these engines are fitted on boat with the following
 - a. Main Propulsion engines for driving the boat/ships. These fall under 8408 1093 chapter
 - b. Following are also the applications of the Diesel Engines
 - i Power Generating Plant (Electric/ Hydraulic)
 - ii Pumps for
 - A. Firefighting in the boat/ ships or special boats/ ships meant for firefighting.
 - B. Bilge Pumps

- C. Bow thruster Prime mover.
 - D. Winch driving for applications like oil spill vessels, Ramps, Windlass etc.
 - E. Hydraulic pump driving for various applications including dredgers
2. Gear box fall under chapter number 8483 Marine Gearbox are used for the following applications,
- a. Driving to Mann Propulsion engines
 - b. Driving the electrical Propulsion
 - c. Driving point no B to E referred above for types of Pumps,
3. Generator fall under chapter number 8502 1100. All marine Generator is an assembly of Marine Diesel Engine and marine Alternator and marine panel on a base rail, These Engines/ alternator/ panel are specially made for Marine adaptability and are specially manufactured and have a third party certifying international Maritime approved body which ensures the adherence to the marine Specifications.

All the engines, gearboxes used in all the points referred above are specially made for marine adaptability and are specially manufactured and have a third party certifying international maritime approved body which ensures the adherence to the marine specifications for certain class of vessels/ boats /ships,

We understand that Ship Boats and floating structures all under chapter 89 which is applicable for shipyards, all the parts of goods supplied to a shipyard and who are building their boats/ships under headings 8901/8902/8904/8905/8906 shall be charged @ 5% (Five Percent).

We hope to have provided you the requisite information and clarification, however should you need any other additional information please feel free to contact us”.

03. CONTENTIONS – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

1. This office does not have any records relating to the Central Excise registration and Service Tax registration with this office Mumbai (West) Commissionerate. Further this office has written a letter dated 6.02.2019 seeking information from the applicant regarding their earlier registrations in Central Excise and Service Tax and details of the earlier SCN . However till date i.e. 18/02/2019 this office has not received any reply from them. Therefore information sought under annexure annexed to the preliminary hearing notice could not be furnished from department side.

2. At the outset after going through the ARA application it appears that assessee has not come forward with actual facts of the case in details along with documentary evidence associated with it. Further the exact point in respect of classification ,valuation and applicability of exemption notification on which they require clarification from the Advance Ruling Authority was not clearly spelt out by the applicant .They have merely enclosed earlier decided case of M/s Shendong Heavy Industry India Pvt Limited without clearly spelling out how the ratio of this case will be applicable to them .On these grounds alone the application filed by M/s C.S. Diesel Engineering Pvt Limited alone is required to be quashed.

2.1 The question no 1,2,3,4 &5 raised by the assessee at 14 of the ARA in their application appears to be totally ambiguous, hypothetical, arbitrary in nature. No documentary evidence was submitted as regards to their activities i.e. supply receipts, types of customers etc.

2.2 Notification No 1/2017 Central Tax dated 28/06/2017 is very clear at Sr. No 252 which states as under

Rate of 2.5% in respect of goods specified in Schedule I

Sr. No.	Chapter heading/Sub- heading/Tariff Item	Description of goods
252	Any Chapter	Parts of goods of heading No 8901,8902,8904,8905,8906 and 8907, 8908

Notification at Sr. No 252 states that CGST and SGST rate of 2.5 each is prescribed for **the intra-state supply** of goods falling under any chapter which will be used solely as a parts of heading No 8901,8902,8904,8905,8906,8907.

As can be seen the heading 8903 is excluded from the chapter 89 from the above notification. Therefore if the supply is as apart of heading 8903, then this exemption at Sr. No 252 is not available to them. Further, notification clearly states the nature of supply as intra-state supply. Therefore inter-state supply is not covered by this part of the notification. It is to emphasise that usage as the parts of 8901, 8902,8904,8905,8906 & 8907 exclusively is prerequisite for availing the impugned notification.

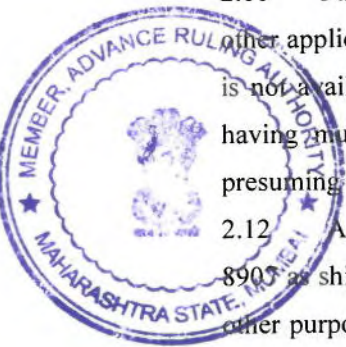
Presuming that applicant has supplied the goods to manufacturer / shipyard owner who are also engaged in the manufacture/supply of goods under 8903, then it may be likely that end use of these part will be in 8903.

2.11 Further in the First question at Sr .No 14 assessee has implied that Marine Engine can be used for other application like pumps falling under 840810. In such cases the exemption under 1/2017 Sr No 252 is not available to the assessee. Further from this submission of the assessee that Marine Engines were having multiple use besides being merely a part of 8901,8902,8904,8905,8906& 8907. Therefore presuming the marine engine will be used as a part of goods falling under chapter 89 will be absurd.

2.12 Also supplying to shipyard also does not establish the usage in 8901,8902,8904,895,8906 and 8907 as shipyard owner can use it in goods falling under chapter 8903 / sell it to other person /use it for other purpose. Therefore assessee statement in question No 2 (or statement 2at sr. No 14 of application) that supply of these goods to shipyard owner will make them eligible for avilment of exemption No 1/2017 Central Tax dated 28.06.2017 is not proper, far-fetched.

2.13 Further at Question No 3 also assessee is seeking the how the invoice is to be made. As a dealer applicant is merely selling the goods without actually effecting the change in goods by process. Therefore there is no change in the classification of the goods from that classification at the receipt stage. Here again the supply to shipyard owners will not be the only criteria for the avilment of exemption Notification. At best that may be considered as one of the criteria. The usage of the goods as part of as part of heading No 8901, 8902, 8904, 8905, 8906 and 8907 should be established beyond reasonable doubts.

2.14 It appears from the Point No 4 raised by the applicant that they are engaged in the manufacture of generators. The marine engine procured from the Ashok Leyland was used in the manufacture of



generator. Since marine Engine 84081093 are used for the manufacture of generator 85021100 by the assessee, the condition of Sr. No 252 of notification no 1/2017 Central Tax is not satisfied . Therefore applicant is not eligible for procuring the goods from Ashok Leyland at the rate of 5%. Further use of these marine generators by the shipyard owner cannot be criteria for procuring the goods at concessional rate of Tax from Ashok Leyland for manufacture of Generator falling under 8502 1100. Further, applicant cannot devise their own set of procedures by misinterpreting the notification.

2.15 Further, at point No 5 the applicant intend to procure the main propulsion from Ashok Leyland at the rate of 5% under letter of undertaking of them with Marine Shipyard name and Hull No. This procedure is not prescribed by statute. Ashok Leyland is independent entity and clearance of goods from their factory/ trading place and rate thereof is their own responsibility. Assesse is their customer and cannot devise the plan to get the supply at the less rate by devising their own method. Therefore assessee's request seeking supply at the lesser rate of 5% is illegal in contravention of provisions of CGST Act and rule made there-under and beyond the scope of ARA.

2.16 The classification and notification are clearly spelt out in GST law, CGST Act, SGST Act and rule made there-under and applicant has no authority to deviate from these prescribed law and devise their own set of law.

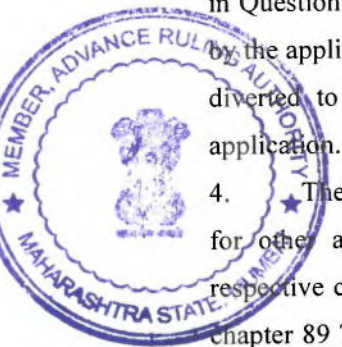
3. Further applicant has stated in their application they are "authorized dealers for Ashok Leyland marine engines and imported marine gear boxes and manufacturer for marine generators"

As stated in their application itself it appears that assessee is engaged in trading of marine engines from Ashok Leyland and also engaged in the manufacture of generators of 85021100. As stated in Question No 4 (at Sr No 14 of application), Marine Engine is used for manufacturing the generators by the applicant. Therefore there is every possibility that marine engine meant for shipyard owner can be diverted to manufacturing generator and this possibility cannot be ignored while scrutinizing the application.

4. The main propulsion engine for ships 84081093, marine gear box under 8483 and marine engine for other application under 840810 was already categorized and classified by the HSN in these respective chapters. In the chapter 89 of HSN there is no specific category in the HSN for the parts of chapter 89 The classification of the goods referred above cannot be changed and stays the same unless and until there is manufacturing process undertaken on these goods. In case of assessee, they are traders of Ashok Leyland marine engines and imported marine gear boxes. Since they are not carrying out any independent process on these goods, classification of the goods remain same as that of 84081093 and 8483 respectively. However as generator manufacturer marine engines when used in generator lose its identity and become generator classifiable under 85021100

5 Applicant have merely enclosed the judgement of Maharashtra Authority for Advance Ruling ruling in the case of M/s Shandong Heavy Industry Pvt Limited and it appears that they are merely seeking confirmation about getting the order from ARA on the basis of the order passed in respect of some other company.

5.1 The fact of the case in respect of M/s Shandong Heavy Industry Pvt Limited and applicants are entirely different as their activities appears to be different.



- Shandong Heavy Industry Pvt. Limited is engaged in assembly and testing of marine diesel engine and they are making supplies to various dealers and shipyard manufacturers.
- Whereas assessee is "Authorized dealer for Ashok Leyland marine engines and imported marine gear boxes and manufacturer for marine generators" marine generator manufactured by applicant consumes marine engines as an inputs.
- Further applicant themselves has not come forward with their own independent facts clearly and in detail along-with any documentary submission regarding types of supply received type of supply made, class of the suppliers, class of purchasers etc. as per the submission made in the case of M/s Shandong Heavy Industry Pvt Limited.
- When their supplier is making the supply at higher rate what changes at their end which will make them eligible to claim benefit of notification No 01/20017 dated 28.06.2017 ?
- In the case of Shandong Heavy Industry Pvt Limited submission was made giving complete documentary evidence such as bill of entries, class of supplier details whereas as per the impugned application no documents were submitted besides their own submission which in absence of documentary evidence can be factually wrong also.

6. Without prejudice to above submission, it is further submitted that as per para 10.1 of Circular No 52/26/2018-GST (354/255/2018-TRU(Part2)) it is clarified that the supplies of marine engines for fishing vessel (being part of fishing vessel) falling under tariff item No 84081093 attract GST 5%. This clarification cannot be read in isolation and entire fact of the case should be taken into consideration. Ashok Leyland is clearing to dealer and paying full rate of duty applicable to the chapter. In the case also there is no reason to change this rate of duty applicable to Ashok Leyland. This exemption referred in the circular is strictly be available to **MARINE ENGINE FOR FISHING VESSELS ONLY**. If marine engine is used for any other purpose presuming if it is used for Yatch 8903 or any other purpose this benefit is not available. For the purpose of availing this exemption usage of the marine engine in fishing boat has to be proven beyond doubt by the person who is claiming benefit.

7. In view of foregoing, it appears that applicant has not provided entire factual realities of their case stating clearly their receipts, supplies, class of supplier, and class of purchaser's etc. i.e. entire documentary process which will allow the department to make a proper submission. Further if all the condition mentioned in the notification No 1/2017 Central Tax (Sr No 252) dated 28/06/2017 is satisfied, there is no reason for the department to raise any objection in this regards.

8. In the absence of these shortcoming appearing in their application, and being trader of Marine Engine and manufacture of generator chances of supply getting diverted appears to be on higher side. Therefore conferring the benefit of ratio of ARA ruling in M/s Shandong Heavy Industry Pvt Limited is not correct, not legal Considering the above submission and facts available on records Honourable ARA may take the decision based on merit as deemed fit.

04. HEARING

Preliminary hearing in the matter was held on 16.01.2019, Sh. Soumil C Shah, Director appeared and requested for admission of application as per contentions made in their application.

Jurisdictional Officer Sh. Rajan Dewoolkar Supt., Division –III, Mumbai West Commissionerate appeared and agreed to submit written submissions in due course.

The application was admitted and called for final hearing on 20.02.2019, Sh. Soumil C Shah, Director appeared, made oral and written submissions. It was brought to notice of applicant that question nos. 4 & 5 are not maintainable as they pertain to supply by M/s. Ashok Leyland. He was further informed to submit product details and usage as certified by competent authority. Jurisdictional Officer Sh. Rajan Dewoolkar Supt., Division –III, Mumbai West Commissionerate appeared and made written submissions. Applicant subsequently submitted details pertaining to the usage of goods supplied and also submitted a certificate by competent authority. We heard both the parties.

05. OBSERVATIONS

We have gone through the facts of the case, submissions made by the applicant and jurisdictional office and documents on record. The issue put before us is in respect of a classification of goods and rate of taxes on the transaction which would be on the lines thus –

- 1) The applicant is an authorized dealer for Ashok Leyland for supply of goods such as marine engines, marine gear box and marine generators.

Applicant seeks clarification with respect to HSN Code and the applicability of entry at Sr. no. 252 of Notification No. 1/2017- Central Tax (Rate) dated 28/06/2017. We now proceed on the basis of submissions of applicant that the supply of impugned goods is exclusively to shipyards and ship owners, which are fitted on boats, ships and vessels manufactured by them. Therefore, the central point of discussion in this application is the applicability of entry no. 252 as aforesaid which reads as below:

Rate of 2.5% in respect of goods specified in Schedule I

Sr. No.	Chapter heading/Sub-heading/Tariff Item	Description of goods
252	Any Chapter	Parts of goods of heading No 8901, 8902, 8904,8905,8906 and 8907, 8908

During the course of hearing, product details were called from the applicant such as supply, usage and certificate and invoices from the actual user of these products. Accordingly applicant has submitted the details regarding usage of products and also a certificate from the recipient of this product company i.e. M/s. A. C .Roy and Company, Kolkata dt. 01.3.2019 and invoices corresponding to supply. We find that the applicant has asked the classification and rate of tax on mainly 3 products - Marine Engines, Marine Gearbox and Marine Generators which are fitted on boats/ ships /vessels, manufactured by the manufacturing companies of marine boat/ships/ vessels and whether these products are covered under Parts of entry no.252 of schedule I of CGST ACT and liable to tax 5%.Therefore, it is necessary to see the proper Central Excise Tariff Code of these products.

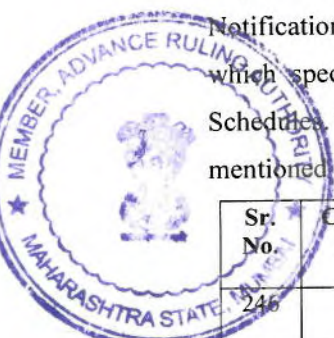
Question No 1 : Please confirm that whether Main Propulsion engine for ships falling under tariff item 8408 1093, Marine Gear box falling under heading 8483 and marine generator falling under 8502 1100 and Marine engine for other applications like pumps falling under sub-heading 8408 10 would be considered as parts of Goods for Chapter 89.



Notification No. 1/2017 – C T (Rate) dated 28th June, 2017, amended from time to time, specifies CGST rate schedules and classification of above mentioned goods under different Schedules. The Schedules applicable to the ‘classification of goods’ as mentioned in the submission attracting tax rate is as follows:

Schedule No.	Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods	CGST / SGST Rate	IGST Rate
IV	115	8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)	14%	28%
IV	116	8409	Parts suitable for use solely or principally with the engines of heading 8407 or 8408	14%	28%
IV	135	8483	Transmission Shafts (Including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)	14%	28%
III	372	8501	Electric motors and generators (excluding generating sets)	9%	18%
III	373	8502	Electric generating sets and rotary convertors	9%	18%

The applicant supplies goods such as Marine engines, Marine gear boxes, and Marine generators to the end user and which are used in building of Boats/Ships/vessels etc. The classifications of these ships/vessels etc. are falling under following headings of Customs Tariff Act, 1975 as adopted by GST Notification No. 1/2017 – Central Tax (Rate) dated 28th June, 2017, amended from time to time, and which specifies CGST rate schedules and classification of above mentioned goods under different Schedules. The Schedules applicable to the above mentioned goods as per the ‘classification of goods’ as mentioned above attracting tax rate is as follows:



Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods	CGST / SGST Rate
246	8901	Cruise-ships, excursion boats, ferry-boats, cargo-ships, barges and similar vessels for the transport of persons or goods	2.5%
247	8902	Fishing vessels; factory ships and other vessels for processing or preserving fishery products	2.5%
248	8904	Tugs and pusher crafts	2.5%
249	8905	Light-vessels, fire-floats, dredgers, floating cranes and other vessels the navigability of which is subsidiary to their main function; floating docks; floating or submersible drilling or production platforms	2.5%
250	8906	Other vessels, including warships and lifeboats other than rowing boats	2.5%
251	8907	Other floating structures (for example, rafts, tanks, coffer-dams, landing-stages, buoys and beacons)	2.5%
252	Any chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906,8907	2.5%

As per the submissions of the applicant , such goods are an essential part of a ship,Boat or Vessels and makes the ships sea worthy.The only issue that is raised before us by the applicant is whether the said parts/goods which are used in a ship are forming parts of the ship/Boat and therefore chargeable to reduced tax @ 5% under Sr.No.252 of Notification No.1/2017 Central Tax (Rate) dated 28.06.2017.

To deal with the limited issue before us i.e. to find out whether the goods/parts used by the applicant are parts of a ship/boat/vessels first of all we need to examine as to what are "Parts". There is no separate tariff item as 'parts of ship' under chapter 89 of First Schedule to Customs tariff Act, 1975 thus meaning of the term 'parts of goods' could then be adopted from its meaning in common parlance.

The term 'part' as defined in Black's Law dictionary: 'an integral portion, something essentially belonging to a larger whole, that which together with another or others makes up a whole'

We find that as per Cambridge English Dictionary: " 'a separate piece of something or a piece that combines with other pieces to form the whole of something One of the pieces that together form a machine or some type of equipment'

As per Import-Export Policy "Part" means an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes. A part may be a component, spare or an accessory.

From the above it could be understood that anything which is an integral element and is also essential to an object, could be considered as part of the article.

Thus in view of the above meanings/definitions of part/parts/Spare Part, we will be required to examine as to what are the parts of Goods of CTH 8901, 8902, 8904, 8905, 8906 and 8907 and whether the subject goods/spares as mentioned by the applicant listed in questions of this ARA application can be taken to be covered within the meaning of Parts for Sr. No. 252 of Notification no. 1/2017 Integrated Tax (Rate) dated 28.06.2017.

We shall now deal with each supply separately. Applicant has submitted that they are engaged in supply of "Marine Engines" falling under Chapter heading 8408 which they supply to dealers of shipyard manufacturers. Marine engine is purchased from Ashok Leyland and supplied as such to various dealers of shipyard manufacturers. They are purchasing under the HSN falling under Central Excise Chapter Tariff code 8408 10, which is related to Marine propulsion engines required for assembly of ships, and for further supplies as such. The relevant chapter heading is reproduced as below:

Chapter heading 84.08 is related to: Compression-ignition internal combustion piston engines (diesel or semi-diesel engines).

Diesel engines are known as compression ignition internal combustion piston engines, are classified under Heading 8408 and are mainly differentiated as Marine Propulsion Engines, Engines of a kind used for the propulsion of vehicles of Chapter 87 and the third as Other Engines. They can further be classified on the basis of operations viz. 2-stroke, 4-stroke, single acting, double acting and finally, on the basis of Cylinder arrangement namely, horizontal, vertical, radial, etc. DMEs are those engines which are used in marine vehicles namely boats, ships, submarines, etc. Both 2-stroke as well as 4-stroke engines are used in the marine industry. The engines used for the main propulsion or turning the propellers of the normal ships are usually slow speed 2-stroke engines while those used for providing auxiliary power are usually 4-stroke high speed diesel engines. The engine itself is made up of several components such as the crankshaft, bedplate, pistons, liner, etc. Further from the perusal of Central Excise Tariff we find following classification-

Chapter / Heading / Sub-heading / Tariff item	Description of goods
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)
8408 10	Marine propulsion engines

Compression-ignition internal combustion piston engines (diesel or semi-diesel engines) are classified under Heading 8408 of the GST Tariff (Machinery and Mechanical Applications) and Marine Propulsion Engines are classified under sub heading 8408 10 of the said Tariff. The applicant has submitted that they are supplying the goods like Marine Engine. We find that that a very specific description and mention of such engines is made under Heading 8408 of the GST Tariff and in view of the same it is very clear that Marine Engine is classifiable under heading 8408 of the GST Tariff. Under Sr. No. 115 of Schedule IV of Notification No. 1/2017 – Central Tax (Rate) dated 28th June 2017, the tax rate for Marine Engine is 14% each of CGST and SGST.

Now we shall move to the second product raised in question by the applicant which is “Marine Gear Box “, as follows:-

The applicant has submitted that they are also engaged in supply of Marine Gear Box falling under heading 8483 and making supply of the same as such to various dealers of shipyard manufacturers. We find that Tariff Heading 8483 covers goods as under:-

Chapter / Heading / Sub-heading / Tariff item	Description of goods
8483	Transmission Shafts (Including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)

Gear Boxes are specifically mentioned under Heading 8483 (tariff item 8483 40 00) of the GST Tariff (Machinery and Mechanical Applications). The applicant has submitted that their purchases such as Marine Gear Box are from M/s Ashok Leyland. In view of the fact that a very specific description and mention of such gear boxes is made under Heading 8483 of the GST Tariff, we find that Gear Boxes are classifiable under Heading 8483 of the GST Tariff. These are marine gear boxes which are used in the Marine industry for driving Marine Propulsion engines, driving Electrical propulsion and driving different types of pumps used in the manufacturing of Ships/Boats/Vessels. Under Sr. No. 135 of Schedule IV of Notification No. 1/2017 – Central Tax (Rate) dated 28th June 2017, the tax rate for Gear Boxes is 14% each of CGST and SGST.

Now we shall move to the third product raised in question by the applicant which is “Marine Generator “as follows:-

The applicant has submitted that they are also engaged in supply of Marine Generator falling under Tariff item 8502 1100 and making supply of the same as such to various shipyard manufacturers. We find that Tariff item 8502 1100 covers goods as under:-

Chapter / Heading / Sub-heading / Tariff item	Description of goods
8502	Electric generating sets and rotary convertors

Generating sets are specifically mentioned under heading 85.02. Detailed description is as below:-

Generating sets with compression-ignition internal combustion piston engines (diesel or semi-diesel engines): under sub-heading 8502.11 - - Of an output not exceeding 75 kVA. The expression "generating sets" applies to the Combination of an electric generator and any prime mover **other than an electric motor** (e.g., hydraulic turbines, steam turbines, wind engines, reciprocating steam engines, internal combustion engines). Generating sets consisting of a generator and its prime mover which are mounted (or designed to be mounted) together as one unit or on a common base (see the General Explanatory Note to Section XVI), are classified here provided they are presented together (even if packed separately for convenience of transport).

Electric generating sets for welding equipment are classified in this heading when presented separately, without their welding heads or welding appliances. However, they are excluded (heading 8515) when presented together with their welding heads or welding appliances.

In the present case applicant has submitted that the all Marine Generators are an assembly of Marine Diesel Engine, Marine Alternator and Marine Panel on a base rail. These Engines/ alternator/ panel are specially made for Marine adaptability, are specially manufactured and have a third party certifying (International Maritime approved body) which ensures the adherence to marine specifications.

Therefore considering the above provisions under GST Act and submissions of the applicant, we find that marine generator are generating sets with compression-ignition internal combustion piston engines. They are a combination of an electric generator and any prime mover other than an electric motor and working with the engine. Therefore, Marine Generator is used as part of the marine engine which is further used for manufacturing of ships/boats/vessels. It is an essential part of ship and is used when the main engine fails to work on the ships. They generate the electricity to move the engine and supply of electric power for other purposes on the ships. We find that if it is supply individually then as per Notification 1/2017, date 28.6.2017, it falls under entry no. 373 of Schedule III for the tax rate of 18% under CGST ACT.

We find that items like Marine Engines, Marine Gearbox and Marine Generators which are covered under different HSN code are fitted on the boats/ ships /vessels, by the manufacturing companies. They clearly fall under the expression essential parts of a ship or vessel and a ship cannot be imagined to be in existence without these parts.

We find that the items that are discussed as essential parts of a ship/vessel are such essential components of a vessel/ship without which the ship would not be complete and would not exist. These are very integral for the functioning of the ship and can also be separated from the ship for repair/replacement. When we refer to the definition of the word 'part' as discussed in detail above, we find that 'part' is a separate piece of something or a piece that combines with other pieces to form the whole of something.

Similarly the second definition of part also defines 'part' as one of the pieces that together form a machine or some type of equipment. Therefore we have come to the conclusion that these impugned goods are used as a parts of Ships/Boats/vessels and their detail usage are as follows:

Sr. No.	EQUIPMENT	DESCRIPTION	REMARKS
1	Marine engine	Used to build the ships/ Boats Marine Vessels	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship/boat/vessel as per above discussions
2	Marine gear box	Used to build the ships/ Boats Marine Vessels	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship/boat/vessel as per above discussions
3	Marine Generator	Used to build the ships/ Boats Marine Vessels	Is an essential part of ship and without it the ship would not be performing its essential function and therefore would be parts of a ship/boat/vessel as per above discussions

We have found that above said goods are falling under Headings 8408, 8483 and 8502 and as per the GST Notification no. 1/2017 CT (Rate) dated .28.6.2017, are taxable at rates of 28 % , 28% and 18% respectively. But in view of the above discussion and as submitted by the applicant we find that the marine engine, the gear boxes and marine Generator supplied by them as parts for end-use in the ships/boats/vessels, merit classification as parts of goods under headings 8901, 8902, 8904, 8905, 8906 and 8907 of the GST Tariff and therefore would attract 5% (2.5% CGST and SGST each). We find that Marine Engines, Marine Gear Boxes and Generators which are claimed to be supplied by the applicant to dealers and shipyard manufacturers for use in goods falling under headings 8901, 8902, 8904, 8905, 8906 and 8907 will be deemed to be parts of vessels falling under headings 8901, 8902, 8904, 8905, 8906 and 8907, if they are used in goods covered under Tariff Headings 8901, 8902, 8904, 8905, 8906 and 8907 and are not diverted and used for other purposes somewhere else. However it is to reiterate that the benefit of reduced CGST and SGST for such Marine Engine, Marine Gear Boxes and Generators would only be available and applicable if the engines and gear boxes are used as parts of goods falling under headings 8901, 8902, 8904, 8905, 8906 and 8907 of the GST Tariff. The benefit of concessional GST rates would not be available in respect of above goods supplied by the applicant if the same are for use in goods other than goods of headings 8901, 8902, 8904, 8905, 8906 and 8907 of the GST Tariff.

The classification of goods under Sr. No. 252 depends solely on the nature of use to which the goods are put to. We find from the above table that the items mentioned at Sr. No. 1,2, and 3 are essential parts of a ship/vessel without which the ship would not be complete and would not exist. These are very integral for the functioning of the ship. Hence we are of the opinion that the items mentioned by them, form as parts of a ship and therefore would be eligible to concessional rate of GST as contended by the applicant.

Therefore, Marine engines, Marine gear boxes and Marine generator supplied by the applicant to dealers of shipyard manufacturers are used as **Parts of vessels falling under 8901, 8902,8904,8905,8906 and 8907**. So the specific entry Sr. No. 252 of Schedule I of Notification No. 1/2017 – CT (Rate) dated 28th June 2017 is clearly applicable to the same goods as follows:

Schedule No.	Sr. No.	Chapter/Heading/Sub-heading/Tariff item	Description of goods	CGST/SGST Rate	IGST Rate
I	252	Any Chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907	2.5%	5%

Question no 2 and 3:-

2) Further if the all above used in manufacturing of the boat/ ships under headings 8901/8902/8904/8905/8906./ 8907 shall be charged with 5% even if in their respective chapters, the rates of GST are higher: For example, GST for HSN code 8408 10 93 is 28%, but when supplied to shipyards would be 5% and also implied for chapters 8483 and 8502 1100 above.

3) The invoice made by the dealer to the shipyard would be made under the respective headings, but with 5% GST. For example marine main propulsion engine would be made with 5% GST under HSN code 8408 1093 and not 28%. And also implied for chapters 8483 and 8502 1100 above with 5% GST.

From the forgoing discussion it is clear that the applicant can supply the Marine Engine , Marine Gear Boxes and Marine Generators as **Parts of headings of 8901, 8902, 8904, 8905, 8906, 8907** as per Sr. No. 252 of Schedule I of Notification No. 1/2017 Central Tax (Rate) dated 28th June, 2017. However, the applicant's impugned products are covered under different Headings 8408, 8483 and 8502 attracting higher rate of GST.

We have considered the opinion and appreciated the written contention of the jurisdictional officer but have not found the same to be convincing. Applicant has submitted sufficient information including the usage information and certificate of the manufacturing shipyard owners. We have also considered our ruling under The Maharashtra Authority for Advance Ruling order in the case of Shandong Heavy Industries India Pvt Ltd, order passed on the 15/06/2018 where, on similar facts we held that the Marine Diesel Engine and marine gear boxes are the essential part of ships.

Question Nos 4 & 5

As the question no.4 and 5 are related to the transaction of supply by M/s. Ashok Leyland, as per the provisions of Section 95 and Section 97 of the GST Act, these questions are out of purview of this authority. Hence not answered.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 102/2018-19/B- 28

Mumbai, dt. 14/03/2019

For reasons as discussed in the body of the order, the questions are answered thus –

Question :- 1) Please confirm that Main Propulsion engine for ships falling under HSN code 8408 1093, Marine Gear box falling under heading 8483 and marine generator falling under 8502 1100 and Marine engine for other applications like pumps falling under sub-heading 8408 10 would be considered as parts of Goods for Chapter 89,

Answer: - Answered in the affirmative. The goods as above supplied by the applicant would be considered as parts of goods for chapter 89.

Question :- 2) Further if the all above used in manufacturing of the boat/ ships under headings 8901, 8902, 8904, 8905, 8906 and 8907 shall be charged with 5% even if in their respective chapters, the rates of GST are higher: For example, GST for HSN code 8408 10 93 is 28%,

but when supplied to shipyards would be 5% and also implied for chapters 8483 and 8502 1100 above.

Answer: - Answered in the affirmative. The goods as above supplied by the applicant used in the manufacturing of the boat/ ships under headings 8901, 8902, 8904, 8905, 8906 and 8907 shall be charged with 5% even if their GST rates are higher, by application of Notification 1/2017 of the Central Tax (Rate).

Question :- 3) The invoice made by the dealer to the shipyard would be made under the respective product chapter, but with 5% GST. For example marine main propulsion engine would be made with 5% GST under HSN code 8408 1093 and not 28%. And also implied for chapters 8483 and 8502 1100 above with 5% GST.

Answer: - Answered in the affirmative

Question :- 4) As a generator manufacturer, we buy a marine Engine from our principles (Ashok Leyland). Please conform if we could buy under 5% GST from Ashok Leyland with our letter of undertaking stating that we shall be supplying these Generators to Marine Shipyard also stating in the letter , the with Hull number (which is always unique)for a project and shipyard order copy. We would also submit a covering letter from the shipyard to Ashok Leyland for the same subject matter and yard number (which is always unique). With all this above procedure can Ashok Leyland supply us Marine Generator Diesel Engines with 5% GST under HSN code 8408 1093?


Answer: - Not answered in view of above discussions.

Question :- 5) When we have to sell an engine to shipyard for main Propulsion, we buy it from Ashok Leyland. under that context could we buy the engines with our letter of undertaking stating that we shall be supplying these engines to marine Shipyard name and Hull number (which is always unique) for that project and with shipyard order copy and also a covering letter from the shipyard for the same subject matter and yard number (which is always unique). With all this can we get the supplies from Ashok Leyland at 5% GST?

Answer: - Not answered in view of above discussions.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)
CERTIFIED TRUE COPY

MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

- Copy to:-
1. The applicant
 2. The concerned Central / State officer
 3. The Commissioner of State Tax, Maharashtra State, Mumbai
 4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
 5. Joint commissioner of State Tax, Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.