


<p>GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.</p>	
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ADVANCE RULING NO. GUJ/GAAR/R/14/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/44)

Date: 27.01.2021

Name and address of the applicant	:	M/s. Trelleborg Marine Systems India Pvt. Ltd. 1702-1709 , B – Block , West Gate , Sarkhej- Gandhinagar Highway, Near YMCA Club, Ahmedabad, Gujarat-380015.
GSTIN of the applicant	:	24AACCT5495P1ZN
Date of application	:	06.10.2020.
Clause(s) of Section 97(2) of CGST/ GGST Act, 2017, under which the question(s) raised.	:	(a)Classification of goods and/or services or both.
Date of Personal Hearing	:	23.12.2020 (Through Online Hearing)
Present for the applicant	:	Shri Kumar Parekh

BRIEF FACTS

The applicant M/s. Trelleborg Marine Systems pvt.ltd., 1702-1709, 17th floor, B-Block, West Gate, YMCA club, S.G.Highway, Ahmedabad-380015 is engaged in the business of trading of products like fixtures, buoys, bollards, frontal frames and fascia pads which are made mainly from iron and steel, barring fascia pads which are made from plastics and these products are primarily used at port/jetty as support infrastructure.

2. The applicant has submitted that under the erstwhile Indirect tax regime, the applicant was subjected to the levy of Value Added Tax and Central Sales Tax (hereunder referred to as ‘VAT’ and ‘CST’ respectively); that the applicant, being a trading entity, was not required to be registered under the Central Excise legislation; that since, the classification under Gujarat VAT is not derived by any Harmonized System of Nomenclature (‘HSN’) except for specific/few goods, classification adopted by Applicant was a subject matter of dispute between VAT authorities and the Applicant; that under the classification mechanism provided under Gujarat VAT legislation, there were two predominant rates of VAT in force *viz.* 5% (4% + 1% additional tax) and 15% (12.5% + 2.5% additional tax) and for the former category, goods were specifically enlisted whereas the latter tax rate applied as a residual tax rate on all other goods; that in the erstwhile regime, the applicant had classified each product under its specific category provided under 5% tax rates but this classification was disputed by the VAT Department, without providing sufficient grounds for substantiation; that subsequent to the change in the Indirect tax legislation and considering the way in which the manner for classifying goods and services has undergone a change, they seek to understand the correct classification of their products under the GST regime. The applicant has stated that in view of this, they wish to have clarity on classification of certain products dealt in by the Applicant and based on the

above facts, they have raised the following questions seeking Advance Ruling on the same:

Question-1(Part-A) –What would be the classification of the following products under GST and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).

Sr. No.	Products
1	Bollards
2	Bolts, nuts, screw, washer etc. known as fixtures
3	Frontal Frames
4	Fascia Pads – UHMW PE pads
5	Buoys
6	Chains / Swivel / D-Shackle/ Chain tensioner
7	Rubber Fender (both types)

Question-2(Part-B): Whether supply of few products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).

Question-3(Part-C): Whether supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.1/2017 dated June 28, 2017 (as amended)?

Question-4(Part-D): Whether supply of installation service where usage of chemical is essential to provide effective service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax thereon in accordance with Notification No.11/2017 dated June 28, 2017 (as amended)?

3. The applicant has submitted the grounds for application/interpretation of law stating that irrespective of any other submission, the classification of the products is subject to dispute under the VAT legislation and in this regard, appeals have been filed for FY 2012-13 and 2013-14; that the applicant applied for Vera Samadhan Scheme for settlement of dispute and have paid required tax in accordance with the scheme and the appeals are withdrawn; that it is important to note that classification under VAT was not determined based on HSN as prescribed in GST regime; that Section 98 of the Central Goods and Services Tax Act, 2017 (hereafter referred to as ‘CGST Act’) provides the procedure to be followed on the receipt of an advance ruling application by the Authority for Advance Ruling and the proviso to this Section, specifically states a situation when the advance ruling application will not be admitted. The relevant portion of the Act is reproduced hereunder:

*Provided that the Authority shall not admit the application where the question raised in the application **is already pending or decided in any proceedings** in the case of an applicant under any of the provisions of **this Act**:*

3.1 The applicant has submitted that the term ‘this Act’ is the CGST Act

2017, is stated in Section 1 and it is also quite clear from the perusal of the aforementioned proviso that a combination of three elements would mean that the application will not be admissible. The criteria are:

- Subject matter of advance ruling application should be pending or concluded in a proceeding
- The proceedings should be in relation to the same applicant
- The proceedings should be pending or concluded under the GST Act

3.2 The applicant has stated that the logic behind this refusal for admissibility is purely based upon the fact that when one authority has looked into a subject matter or is under the process of concluding upon it, there is no reason that the advance ruling authority should provide clarification on the same; that in the given case, the disputes were pertaining to the Gujarat Value Added Tax Act, 2003 and the advance ruling application filed by them is tenable in nature.

3.3 The applicant has submitted that this point was re-iterated, in the case of **Asahi Kasei India Pvt. Ltd. Vide Order No. MAH/AAAR/SS-RJ/01/2019-20, dated June 19, 2019 in Appeal No. MAH/GST-AAAR-01/2019-20** and in the given Order, it was explained that the maintainability of the advance ruling could not be questioned simply because an enquiry was pending in respect of the erstwhile service tax regime, when there is no issue pertaining to GST which is decided or under proceeding. The relevant portions of the Order are reproduced hereunder:

*“23. In order to examine the maintainability of the Advance Ruling application filed by the Respondent before the Advance Ruling Authority in light of the Annexure K to the Advance Ruling application, the said Annexure K, **which is a letter issued by DGGI, MZU, pertaining to the Service Tax enquiry against the Respondent for the period ranging from 1-4-2013 to 30-6-2017**, is perused. On perusal of the said enquiry letter dated 23-1-2018, it is observed that the said Service Tax enquiry was initiated to ascertain the facts relating to the payment of service tax, wherein various financial documents and statements including the Income/expenditure ledger, Cenvat Credit ledger, Audited Annual Financial Reports for the period from 1-4-2013 to 30-6-2017 were called for from the Respondent. Thus, from the said Annexure K, **it is revealed that the enquiry was restricted to the service tax matter only** as the period of the enquiry was before the introduction of the GST regime, and hence does not include any issue pertaining to the GST, whatsoever.*

*24. Now, coming to the legal provisions relating to the maintainability of the Advance Ruling application, which have been laid out in Section 98(2) of the CGST Act, 2017 reproduced hereinabove in para 22, it is expressly clear that **only those application will not be admitted before the Advance Ruling Authority, wherein the questions raised in the application are already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act. Since there is no issue pertaining to the GST Act which is pending or decided in any proceedings** in the case of an applicant under any of the provisions of this Act, the Advance Ruling application filed by the Respondent before the Advance Ruling Authority is clearly maintainable.”*

4. The applicant has submitted that the advance ruling application is maintainable and admissible; that VAT matters are not connected to HSN classification of the given products and hence, they also submit that the questions for which Ruling is sought is different from the question under consideration in those cases. The Applicant has stated that they are engaged in trading of goods which are used at ports as support infrastructure and the list of goods being traded by them are as under and for ease of understanding, the brochures of the products are enclosed herewith as **Annexure B**.

- Bollards
- Bolts, nuts, screw etc. known as fixtures
- Frontal Frames

- Fascia Pads
- Buoys
- Chains / Swivel / D-Shackle/ Chain Tensioner
- Rubber Fender (both types)

5. Apart from above, the applicant has submitted as under, the details of major or important raw-material used in making of these products.

Sr. No.	Products	Major/important raw-material used in making
1	Bollards	Cast iron, SG iron & cast steel
2	Fixtures	Iron & steel
3	Frontal frames	Steel structure (Fabricated & painted)
4	Fascia pads	Ultra high molecular weight polyethylenor HDPE viz. plastic,
5	Buoys	Steel, Foam, Wall Protection fender
6	Chain/ swivel/ d-shackle/chain tensioner	Iron & steel
7	Rubber Fender (both types)	Rubber, air Foam

6. The applicant has submitted that in order to understand the classification and applicable rates under GST, Notification no. 1/2017-Central Tax (Rate) dated June 28, 2017 (as amended) has to be referred to and this notification divides goods, which can be identified on the basis of the tariff item, sub-heading, heading or chapter, under six schedules and these schedules are based upon the tax rates prevalent under the GST regime; that from the perusal of the aforementioned notification, they understand that reference is made to the Customs Tariff Act, 1975 for the purpose of classifying products. The relevant extract of the notification is reproduced hereunder:

Explanation –

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) **The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.**

7. The applicant has submitted that the rules for interpretation of the First Schedule to the Customs Tariff Act, 1975 would be applicable for interpretation /classification of goods in GST regime which means that in GST regime, the Customs Tariff has become relevant for the purpose of determination of classification for any supply of goods; that in order to draw persuasive value regarding classification of the products under consideration, it would be important to refer to the Explanatory Notes issued by the World Customs Organization; that the Explanatory Notes do not form an integral part of the Harmonized System Convention; that however, as approved by the World Customs Organisation Council, they constitute the official interpretation of the Harmonized System at the international level and are an indispensable complement to the System; that from the official website of the World Customs Organization, they find the following explanation and stated that even though it does not form part of Indian Customs classification system, the Explanatory Notes and the provisions given thereunder can be referred to for clarity in

classification.:

The **Explanatory Notes provide a commentary** on the scope of each heading, giving a list of the main products included and excluded, together with technical descriptions of the goods concerned (their appearance, properties, method of production and uses) and practical guidance for their identification. **Where appropriate, Explanatory Notes also clarify the scope of particular subheadings.**

8. In light of the above, the applicant has submitted that even though it does not form part of Indian Customs classification system, the Explanatory Notes and the provisions given thereunder can be referred to for clarity in classification. The applicant has provided a brief description of the products and their potential classification as under.

(A) Bollards

1. Bollard is a sturdy, vertical post used principally as an anchoring point for boats/ vessels. Ropes from vessel/ship are tied on the bollard barrel during the stay of vessel/ ship at the berth/jetty to secure stationery position in the seabed. It will prevent the ship/ vessel from being carried away by the waves. The sample copies of purchase & sales invoices are attached as **Annexure C** for easy reference. The photos are reproduced hereunder for easy understanding of the product.



2. This product is manufactured from ductile iron, SG iron and cast steel which are pre-dominant inputs to make marine bollards. They are made in various shapes as per the specific requirements of the customer like tee bollard, horn bollard and kidney shaped bollard.

3. Since the main inputs used are iron and steel, from perusal of Customs Tariff, the Applicant believes that the product would be classified under Chapter 73 - 'Articles of iron or steel'. Furthermore, from perusal of Chapter 73, the Applicant believes that the product would be classified under Heading 7325 - Other cast articles of iron or steel'.

4. Further, the Explanatory Notes to Chapter 73 of Harmonized Commodity Description & Coding System by World Customs Organization, specifies that bollards would be included within the tariff entry 7325 as cast articles of iron or steel, The relevant extract has been reproduced hereunder for your easy reference:
*"This heading covers all **cast articles** of iron or steel, not elsewhere specified or included.*

The heading includes, inspection traps, gratings, drain covers and similar castings for sewage, water, etc. systems, hydrant pillars and covers; drinking fountains; pillar-boxes, fire alarm pillars, **bollards, etc....”**

5. Considering the above classification, the Applicant would like to draw reference to Schedule III of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 18% for product falling under Chapter Heading 7325. The relevant extract has been provided hereunder for easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
237	7325	Other cast articles of iron or steel

6. Therefore, the Applicant submits that the Bollards would merit classification under Chapter Heading 7325 99 and would attract GST at a rate of 18%.

(B) Fixtures

1. The Applicant submits that fixtures would generally mean something that is used to set an article firmly in a place. It includes all kinds of fixtures and fasteners i.e. Bolts, Anchors, Nuts & washers. The sample copies of purchase & sales invoices are attached as **Annexure D** for reference. Further, the photos are reproduced hereunder for easy understanding of products.



2. The Heading 7318 covers screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotterpins, washers (including spring washers) and similar articles, of iron or steel. For better understanding, it would be relevant to comprehend general meaning of the each of the terms:

- A bolt is mechanical fastener used with a nut for connecting two or more parts. It consists of a head and a cylindrical body with screw threads along a portion of its length
- A nut is a piece of metal, usually square or hexagonal in shape, with a hole through it having machined internal threads, intended to be screwed onto a bolt
- A screw is a type of fastener, similar to a bolt, with a thin pointed piece of metal with a raised edge twisting round its length and a flat top with a cut in it, used to join things together
- A fastener is a hardware device that mechanically joins or affixes two or more objects together

3. The Explanatory Notes of the Harmonised Commodity Description and Coding System provides the description of the products which are covered under Heading 7318, which is reproduced hereunder:
*‘The heading includes **all types of fastening bolts and metal screws regardless of shape and use...**’*
4. Furthermore, persuasive evidence can be drawn from the ruling by Commercial and Trade Facilitation Division of the United States, dated November 01, 2010. The relevant extracts are reproduced hereunder:
There is no dispute the subject merchandise, the fasteners, are classified under heading 7318, HTSUS, and under subheading 7318.15, HTSUS. *The distinguishing feature between the two representative sample fasteners A and B, provided by the importer, is the absence (sample fastener A) or presence (sample fastener B) of a washer face on the fastener.*
5. Fastener is a broad term which covers tools used to join or affix two or more objects together. The notes to the aforementioned heading clearly intend to cover all such fastening tools.
6. *From the perusal of the Customs Tariff Act, the Applicant submits that the classification of the fixtures would be as follows:*
Nuts - 7318 16
Washers - 7318 22
Bolts - 7318 11
Anchor - 7318 11 or 7318 29

The relevant extract has been provided hereunder:

Tariff item	Description of goods
7318	SCREWS, BOLTS, NUTS, COACH-SCREWS, SCREW HOOKS, RIVETS, COTTERS, COTTER-PINS, WASHERS(INCLUDING SPRING WASHERS) AND SIMILAR ARTICLES, OF IRON OR STEEL
-	Threaded articles
7318 11	Coach screws:
7318 11 10	Machine screws
7318 11 90	Other
7318 12 00	Other wood screws
7318 13 10	Screw hooks and screw rings
7318 14 00	Self-tapping screws
7318 15 00	Screw for use in manufacture of cellular mobile phone
7318 16 00	Nuts
7318 19 00	Other
-	Non-threaded articles:
7318 21 10	Spring washers and other lock
7318 22 00	Other washers
7318 23 00	Rivets
7318 24 00	Cotters and cotter-pins
7318 29	Other:
7318 29 10	Circlips
7318 22 00	Other

7. Considering the above classification, the Applicant would like to draw reference to Schedule III of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 18% for product falling under Chapter Heading 7318. The relevant extract has been provided hereunder for easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
237	7318	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel

8. Therefore, the Applicant submits that the fixtures would clearly merit classification under ‘Screws, bolts, nuts etc.’ under Chapter Heading 7318 and would attract GST at a rate of 18%.

(C) Frontal Frames

1. Frontal frames are closed box structure of steel pneumatically leak tested to make sure that there are no punctures on it. It is made out of horizontal and vertical steel beam sections of steel which is self-buoyant and a floating structure. Use of this structure is to reduce the impact pressure on the ship/hull as per requirement.
2. In this case, the Applicant procures frames made up of steel for further sale. As a process, the Applicant either procures steel plates on their own or requests fabricator to procure steel plates of desired quality and provide it to the fabricator for fabrication as per specification and design. Apart from fabrication, the Applicant would also get the final products painted from different vendor.
3. Moreover, the Applicant receives orders from the customers wherein the customer wishes to purchase frames along with the pads in complete sets. This scenario is discussed in Question-2 (Part-B) of this Advance Ruling application.
4. The photos are reproduced hereunder for easy understanding of the products.





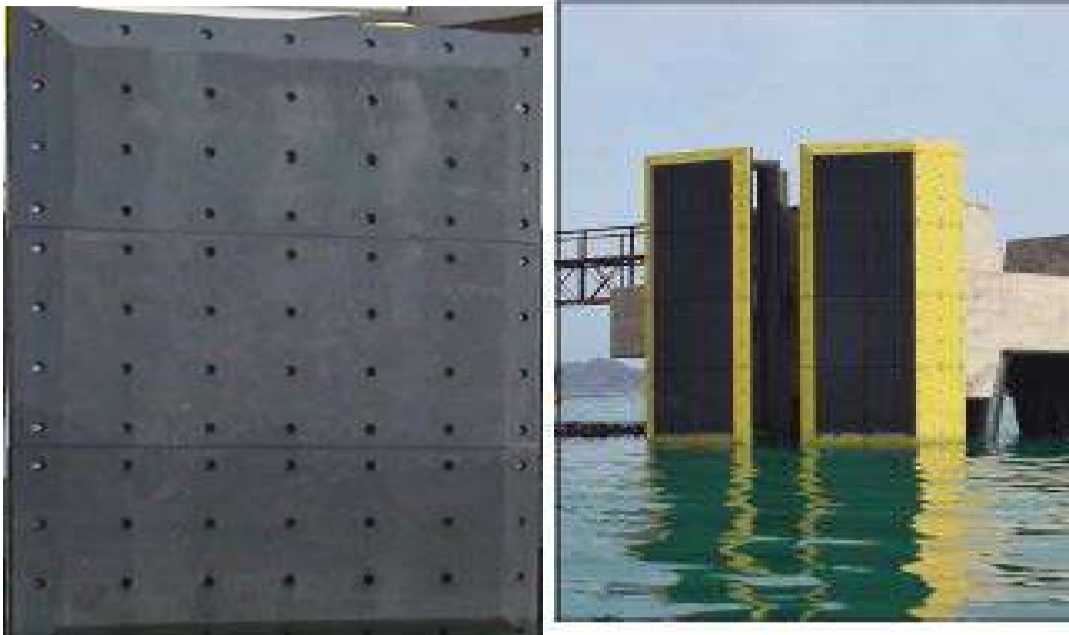
5. The Applicant submits that frames are nothing but fabrication of steel plates as per specific drawing and design or to say, steel sheets are welded to make it like a box structure.
6. Considering the above classification, the Applicant would like to draw reference to Schedule III of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 18% for product falling under Chapter Heading 7326. The relevant extract has been provided hereunder for your easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
238	7326	<i>Other articles of iron or steel</i>

7. Therefore, the Applicant submits that the frontal frames would merit classification under Chapter Heading 7326 90 and would attract GST at a rate of 18%.

(D) Fascia Pads

1. Fascia pads are also known as UHMW PE Pads wherein UHMW PE stands for Ultra-high-molecular-weight polyethylene. This means that pads are specie of high quality of plastics. Fascia Pads are applied on the frame structure on which vessels/ship hull touches. It is applied to reduce frictional load between ship / vessel and frame structure during berthing the vessels/ship. The Applicant in certain cases sell/supply these pads on individual basis as per the requirement of customers.
2. Additionally, the Applicant sells this pads along frames which are affixed with the frames. This scenario is discussed in Question-2 (Part-B) of this Advance Ruling.
3. Further, the photos are reproduced hereunder for easy understanding of the products.



4. At present, the Applicant wishes to understand the classification of supply of independent pads to the customer wherein the pads would not be affixed with frames.
5. Considering the fact that the pads are made of plastic, it would be essential to refer the Chapter 39 – ‘Plastics and articles thereof’ of the Tariff provided under Customs Tariff Act, 1975. The most appropriate heading to be referred to in this instance is heading 3920 which is reproduced hereunder for your easy reference:

Tariff Item	Description of goods	
3920		Other plates, sheets, film, foil and strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials
3920 10	-	<i>Of polymers of ethylene:</i>
	---	<i>Sheets of polyethylene</i>
3920 10 11	----	Rigid, plain
3920 10 12	----	Flexible, plain
3920 10 19	----	Other
	---	<i>Other</i>
3920 10 91	----	Rigid, plain
3920 10 92	----	Flexible, plain
3920 10 99	----	Other

6. From the tariff entry reproduced above, the Applicant submits that the pads are made from polyethylene and therefore, it is important to understand the meaning of the term ‘polymer’. From dictionary meaning, the Applicant understands that the term ‘polymer’ means a substance which has a molecular structure built up chiefly or completely from a large number of similar units bonded together. Hence, the Applicant would like to submit that polymers of ethylene would mean things mainly made from ethylene. Therefore, the Applicant submits that facia pads made from polyethylene would merit classification of tariff code 3920 1099.
7. In order to be classified under the aforementioned entry, the following conditions need to be satisfied:
 - (i) The product should be one of plates, sheets, film, foil or strip
 - (ii) It should be made out of plastic (polymer) and can be supported or

combined by other elements.

8. It is important to analyse each of the above criteria in order to determine whether fascia pads can be classified under the given heading.

(i) The product should be one of plates, sheets, film, foil or strip

The explanation to heading 3920 provides an explanation as to what would be classified as plates, sheets film, foil or strip, which is reproduced hereunder for easy reference:

*According to Note 10 to this Chapter, the expression “plates, sheets, film, foil and strip applies only to plates, sheets, film, foil and strip and to blocks of regular geometric shape, whether or not printed or otherwise surface worked (for example – polished, embossed, coloured, merely curved or corrugated), uncut or cut into rectangles (including squares) **but not further worked** (even if when so cut they become articles ready for use for example, tablecloths).*

(ii) It should be made out of plastic (polymer) and can be supported or combined by other elements

It is evident that the pads are made from polyethylene and therefore, it is important to understand the meaning of the term ‘polymer’. From dictionary meaning, polymer means a substance which has a molecular structure built up chiefly or completely from a large number of similar units bonded together. Hence, polymers of ethylene would mean things mainly made from ethylene. Therefore, fascia pads made from polyethylene would merit classification of tariff code 3920.

To substantiate above, the Applicant would like to refer to the decision of **Veer Plastic Pvt. Ltd. Vs. Collector of Central Excise, Ahmedabad [2004 (168) E.L.T. 255 (Tri. - Del.)]**, wherein it was held that HDPE (High-density polyethylene) tapes or strips would be classifiable under 3920.

9. Considering the above classification, the Applicant would like to draw reference to Schedule III of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 18% for product falling under Chapter Heading 3920. The relevant extract has been provided hereunder for easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
106	3920	<i>Other plates, sheets, film, foil and strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials</i>

10. Hence, the Applicant believes that fascia pads made from polyethylene would merit classification under Heading 3920 and therefore, the same would be subject to GST at the rate of 18%.

(E) Buoys

1. Buoys are floating structure of steel used in the middle of seas as locators or as warning points for the ships/ vessels. Mooring buoys are a type of buoy, to which, ships can be moored in the deep oceanic areas.

2. As a process, the Applicant would procure materials separately from different vendors such as PUF chemicals, rubber fenders, steel ring, stud link chain etc. These items would be given to another vendor for the purpose of fabrication. The ready to use or completely fabricated item, known as buoys, would be sold to customers. The same process and raw-

material would be required to manufacture buoys subject to specifics and requirement of the customers.

3. The photos of the buoys are reproduced hereunder for easy understanding of the products.



4. Buoys are mainly made from steel and it is nothing but round shaped structure of steel. In order to maintain buoyancy or to enable the structure to float on water, foam is filled up in the structure. Once, this is done, it is painted with bright color so as to ensure its visibility.
5. Tariff under Customs Tariff Act, 1975 provides that buoys would form part of 'other floating structures'. The relevant extract is reproduced hereunder:

Tariff Item	Description of goods
8907	Other Floating Structures (For Example, Rafts, Tanks, Coffe-Dams, Landing-Stages, Buoys And Beacons)
8907 10 00	Inflatable rafts
8907 90 00	Other

6. Considering the above, the Applicant submits that buoys merit classification under Heading 8907 90. This is re-iterated by the Explanatory Notes by World Customs Organisation, which provides that heading 8907 covers specified floating structures not having the character of vessels. The relevant portion of the heading is reproduced hereunder:

They are generally stationary when in use and include:

(1)...

...

(6) **Buoys**, such as mooring buoys, marking buoys, light or bell buoys.

7. At this juncture, persuasive evidence can be drawn from a ruling by the Commerce Rulings Division of the United States, dated September 27, 1995, which sought to determine the classification of net buoys. The ruling provided the meaning of net buoys as under:
*Net buoys, which are **hollow, sealed, plastic spheres with an aperture through the center and through which the top strands of fishing nets are strung** so that the nets will float in the ocean, are classifiable in subheading 3926.90.9590 (now 3926.90.9890), HTSUSA.*
8. This ruling also throws light on the meaning of buoys. The relevant extracts of the ruling are reproduced hereunder:
*According to **Webster's Third International Dictionary**, a buoy, as herein pertinent, **is an object floating in a body of water and anchored to the bottom of a body of water to mark a channel or to point out various navigation hazards**. A mooring buoy is defined as an anchored buoy fitted to receive a ship's mooring chain or hawser. A bell buoy is defined as a buoy with a bell that rings by the action of waves and usually marks a shoal or rocks.
 The term "buoy", as used in heading 8907, thus **seems to be limited to articles which are moored to the bottom of a body of water to mark something**. The buoys of heading 8907 **do not** include life buoys, *i.e.*, **buoyant rings used as life preservers, recreational rafts, or personal floatation devices** (life belts or jackets). The term "buoy", as used in heading 8907, is not so broad as to include everything that floats but appears to be limited to articles which are moored to the bottom of a body of water to mark something. That provision only covers items which can be described as floating structures. The net buoys are not moored to the bottom of a body of water when in use nor do they perform a function similar to those of buoys as previously described.*
9. In the given case, the buoy is moored to the bottom of the water body to which ships are moored too and also offer a warning point thereby serving navigational purposes, and are not classifiable as net buoys which essentially assist in fishing activities.
10. Considering the above, the Applicant believes that buoys would merit classification of other floating structures under heading 8907 90. Accordingly, the Applicant would like to draw reference to Schedule I of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 5% for product falling under Chapter Heading 8907. The relevant extract has been provided hereunder for your easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
251	8907	<i>Other floating structures (for example, rafts, tanks, coffer-dams, landing-stages, buoys and beacons)</i>

(F) Chain, swivel, d-shackle and chain tensioner

1. The Applicant submits that chain, swivel, d-shackle and chain tensioner are used to support frames to stand still and they are mainly made from steel. The sample copies of bill of entries & sales invoices are attached herewith as **Annexure E** for easy reference. The photo of above referred items is reproduced hereunder for easy understanding of the products.



2. On referring the Explanatory Notes for World Customs Organization, the Applicant observes that it is clearly stated that chains of cast iron, irrespective of dimensions, process of manufacture or, in general, their intended use will be classified under the given heading.
3. Further, the notes provide clarity on the classification of swivels and shackles and related accessories. The relevant portion is reproduced hereunder:
*All these chains may be fitted with terminal parts or accessories (e.g. hooks, spring hooks, **swivels**, **shackles**, sockets, rings and split rings and tee pieces). They may or may not be cut to length, or obviously intended for particular use.*
Iron or steel parts of chains specialized as such e.g. side links, rollers, spindles etc., for articulated chain, links and shackles for non – articulated chain also fall in this heading.
4. In light of this, the Applicant believes that chains, swivels, d-shackle and chain tensioner should be classified under heading 7315. Accordingly, the Applicant would like to draw reference to Schedule III of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 18% for product falling under Chapter Heading 7315. The relevant extract has been provided hereunder for easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
229	7315	Chain and parts thereof, of iron or steel falling under 7315 20, 7315 81, 7315, 82, 7315 89, 7315 90

5. Therefore, the Applicant submits that the Chain, swivel, d-shackle and chain tensioner would merit classification under Chapter Heading 7315 89 and would attract GST at a rate of 18%.

(G) Rubber Fender

1. Rubber fenders are primarily used as “bumpers” to absorb collision energy during contact between the vessel and docks (or even other vessels). The massive sea vessels are embedded with rubber fenders on the outer surface of the vessel or installed on the docks in some cases. These fenders are also known by some as ‘rubber buffers’. The primary objective of the rubber fenders on the dock is to absorb collision energy during the berthing process. This in return protects both the ship and the dock after collision. Generally, there are two types of rubber fender viz. pneumatic rubber fender and foam rubber fender. The sample copy of bill of entry and sales invoice is enclosed as **AnnexureF**
2. Pneumatic rubber fenders are made out of rubber and strengthening

cord layers. This rubber fender is filled with air. Solid rubber fenders have been used for ages since they are readily available and are considered long lasting. Pneumatic Rubber fenders come in different forms including cell rubber fender, cone rubber fender, arch type, unit element fender, cylindrical type CY, "D" type fender, square shaped, keyhole version, cylindrical tug fender, "W" version, "M" version etc. The photos are reproduced hereunder for easy understanding of the product:



3. Foam rubber fenders, made out of rubber and foam, are also used to absorb collision energy during contact between the vessel and docks (or even other vessels). Foam rubber fenders are manufactured from high quality foam and thereafter covered by reinforced polyurethane elastomer i.e. rubber. The performance of foam filled rubber fenders can be modified by changing the grades of foam. This also gives more flexibility to foam filled rubber fenders in meeting different requirements of berthing energy and reaction force as compared to same size of fenders. Foam filled rubber fenders can also be equipped with a chain and tire net for rough applications. Since there is no air pressure inside this fender similar to pneumatic rubber fender, there is no risk of deflating, bursting or sinking. As there are no end fittings like safety valves, ball valves etc., there is less maintenance required for Foam filled rubber fenders compared to Pneumatic rubber fenders.
4. The closed-cell foam structure retains performance even if a fender's skin is punctured. The closed cell internal structure prevents water ingress into the foam. It is important to note that in pneumatic rubber fender, air is contained in fender whereas in foam rubber fender, foam is contained in fender. The photos of foam rubber fender are reproduced hereunder for easy understanding of the product:



5. Customs Tariff Act provides that fenders would be classified under chapter 40 – ‘Rubber and articles thereof’ under Heading 4016 – ‘Other articles of vulcanized rubber other than hard rubber’. The relevant extract has been provided hereunder:

Tariff item		Description of goods
4016		<i>OTHER ARTICLES OF VULCANISED RUBBER OTHER THAN HARD RUBBER</i>
4016 10 00	-	Of cellular rubber
	-	<i>Other</i>
4016 91 00	--	<i>Floor coverings and</i>
4016 92 00	--	<i>Erasers</i>
4016 93	--	<i>Gaskets, washers and other seals :</i>
4016 93 10	---	<i>Patches for puncture repair of self-vulcanising rubber or a rubber backing</i>
4016 93 20	---	<i>Rubber rings (O-ring)</i>
4016 93 30	---	<i>Rubber seals (Oil seals and the like)</i>
4016 93 40	---	<i>Gaskets</i>
4016 93 50	---	<i>Washers</i>
4016 93 60	---	<i>Plugs</i>
4016 93 90	---	<i>Other</i>
4016 94 00	--	<i>Boat or dock fenders, whether or not inflatable</i>

6. Accordingly from the above description, the Applicant believe that pneumatic rubber fenders as well as foam rubber fenders would be classified with HSN 4016 94 00. Accordingly, the Applicant believes that rubber fenders would be leviable @ 18% by virtue of following line entry of Schedule III which has been reproduced hereunder for you easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
123A	4016	<i>Other articles of vulcanised rubber other than hard rubber [other than</i>

	erasers, rubber bands}
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7. Considering that same description as in the Customs Tariff has been provided in the GST notification for Heading of 4016, the *Applicant* believes that the pneumatic rubber fenders would be classified with HSN 4016 94 00 and attract a GST @ 18%.

9. The applicant has submitted their interpretation of law in respect of the second question seeking Advance Ruling i.e. Question-2 as under:

Question-2(PART-B) Whether supply of few products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).

1. Many a times, the applicant receives orders from the customers wherein the customer wishes to purchase frames along with fascia pads and fixtures. Entire set is known as fender panel system within trade & industry. The sample copy of purchase order issued by customer and invoice are enclosed as **Annexure G**. Further, for ease of reference, photograph is reproduced hereunder to understand fender panel system set.



2. Since the supply of fender panel system involves supply of various goods, it will be necessary to look into the type of supply in order to determine the classification of the fender panel system along with the tax rate applicable.

3. Under the GST regime, the concepts of composite and mixed supplies have been newly introduced. The definition of the terms is provided in Section 2 of the CGST Act which are reproduced hereunder:

*(30) “composite supply” means a supply **made by a taxable person** to a recipient consisting of **two or more** taxable supplies of goods or services or both, or any combination thereof, **which are naturally bundled** and supplied in **conjunction with each other** in the ordinary course of business, one of which is a principal supply;*

(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

4. It can be observed that in cases where two or more taxable supplies are made together for a single price and when such supply is not classified

as a composite supply, it will be categorized as a mixed supply. Therefore, at the outset it is necessary to determine whether the supply of a fender panel system qualifies as a composite supply.

5. There are certain conditions which need to be satisfied in order to be considered as a composite supply which are summarized below:
 - (i) Supplies to be made by a taxable person
 - (ii) Supply should consist of two or more taxable supplies of goods or services
 - (iii) The various components of such supply should be naturally bundled and in conjunction with each other
 - (iv) One of supply is principal supply

6. Since the Applicant is a taxable person who supplies two or more taxable supplies by way of supplying fender panel system, the first two conditions are satisfied. It will now be necessary to determine the fulfillment of the latter two conditions. An e-flyer issued by the CBIC on 'Composite supply and mixed supply' provides insights on few indicators which can be used to determine that supplies are bundled in the course of business. The factors are reproduced hereunder, for ease in reference:
 - (i) *The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.*
 - (ii) *Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.*
 - (iii) *The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service....*
 - (iv) *Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:*
 - *There is a single price or the customer pays the same amount, no matter how much package they actually receive or use*
 - *The elements are normally advertised as a package*
 - *The different elements are not available separately*
 - *The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected*

7. The above flyer has relied upon the Service Tax – Education Guide issued in erstwhile regime of Service Tax wherein the clarification were provided with respect to services bundled in the ordinary course of business.

8. From the perusal of the indicators read with the facts/contracts with customer, the applicant submits that the customer perceives fender panel system involving all items to be one set or system and in general, this is the similar practice followed by trade and industry. Further, this bundle of items is essential for each other and are naturally bundled even though same are also sold on individual basis. It is important to note that the supply as per order of customer would be impacted if the Applicant does not supply all the goods required for fender panel system. The Applicant would like to submit that items are sold on individual basis only when any of the item is damaged or has become non-usable which requires replacement of damaged item.

9. Apart from above, the Applicant would like to place reliance on few of the decisions of European Court of Justice, as under. The copy of rulings are enclosed herewith as **Annexure H**.

- In the case of *Card Protection Plan v. Customs and Excise Commissioners*, [1998] EUECJ C-349/96, the ECJ held that a service must be regarded as ancillary to a principal service if it does not constitute for customers an aim in itself, but a means of better enjoying the principal service supplied.
- In the case of *Levob Verzekeringen BV, OV Bank NV v. Staatssecretaris van Financiën*, [2005] EUECJ C-41/04, the ECJ held that where two or more elements or acts supplied by a taxable person to a customer are so closely linked that they form objectively, from an economic point of view, a whole transaction, which it would be artificial to split, all those elements or acts constitute a single supply for the purposes of application of VAT.

10. Considering above discussion, the Applicant submits that in order to qualify various services as naturally bundled, it is essential to have following ingredients in any transaction and same are present in the arrangement in hand.

Ingredients	Whether present in this case
The perception of customer is to obtain all goods as a package	Yes
Whether trade & industry has similar practice to supply fender panel system including all goods	Yes
The nature of bundle should be such that they are bundled in ordinary course of business	Yes
There is single price for package and advertised in the same manner	Yes
Different products / goods are integral part of overall system	Yes

11. Based on above, the applicant submits that the fender penal system is naturally bundled and in conjunction with each other and therefore, third condition is also satisfied.

12. In order to determine the classification and taxability, it is important to refer Section 8 of the CGST Act which is reproduced hereunder:

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

- a composite supply comprising two or more supplies, one of which is a principal supply, **shall be treated as a supply of such principal supply**; and*
- a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.*

13. Further, the term 'principal supply' is defined to mean the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

14. In present case, in order to identify principal supply, the Application would like to place reliance on the Advance Ruling of *NEC Technologies India Pvt. Ltd. vide Advance Ruling No. GUJ/GAAR/R/2020/07 dated May 19, 2020*. The Gujarat Advance Ruling Authority had occasion to analyze whether design, development and supply of automatic fare collection (AFC) system would be considered as works contract or composite supply. In this case, after analyzing the facts, it was upheld that the contract for supply of the AFC system to the local authority does not qualify as a 'Works contract' under Section 2(119) of the CGST Act, 2017, since the installed AFC system cannot be said to result in the emergence of an immovable property. The relevant extract of the decision is reproduced hereunder, for your ready reference.

"25. As per the applicant, apart from the flap gates and manual swing gates, which can arguable to be said to be fixed/ annexed to immovable property, rest all hardware to be supplied under said contracts are movable property. The flap gates, POS machines and manual swing gates are attached with screws and bolts at the entry gates of the bus station. These flap gates can be easily removed without damaging such gates and re-attached to some other locations. Hence, it cannot be said that such gates are permanently embedded to the bus stations and, hence, should be considered as an immovable property. Further, the flap gates are just a part of the AFC system and is not the main equipment of the AFC system. Even if, it is argued that the flap gates are permanently fastened to the earth and form part of the immovable property, it cannot be construed that the whole AFC system would form part of the immovable property.

26. The applicant further submitted that in case of city buses, hand held ETM machines with electronic payment integration are provided for the AFC system. In certain cases, Pole Validators with the AFC system are installed on the buses. Considering that the buses are movable properties, such equipment would not be construed as immovable property. Further, the purpose and function of the AFC system installed on the city buses and BRTS bus stations is the same i.e. fare collection and providing seamless travel with a single smart card/ticket. Hence, it can be seen that the fixation/ attachment of the hardware to bus station/ terminal is not mandatory for the whole system to operate.

27. In view of the above, we agree with the applicant's contention that the contract for supply of the AFC system to the local authority does not qualify as a 'Works contract' under Section 2(119) of the CGST Act, 2017, since the installed AFC system cannot be said to result in the emergence of an immovable property."

15. Further, considering the facts in above ruling, it was upheld that the supply of AFC system would be composite supply and AFC system is the principal supply.
16. Based on above discussion, the Applicant believes that this is composite supply of fender panel system wherein entire system is principal supply which is required by the customer.
17. *From perusal of Customs Tariff Act*, we find that Heading 7308 specifically covers structures. Furthermore, persuasive evidence can be derived from a ruling by the National Commodity Specialist Division of United States, dated July 02, 2009 which provides ample clarification on the classification of such fender panel system. The copy of the ruling is attached as **Annexure I**. The relevant extracts of the ruling reproduced as under:

The products to be imported are fender panel systems for use on both new docks and older docks. The fender panel systems are said to be permanent additions to the dock and integral to the design of the dock or pier. They are described as being permanently attached to the dock and remaining in that position....

The **components of the fender panel system are: rubber fender, plastic faced steel panel, chain, padeyes and anchor shackle ready for assembly.** The plastic faced steel panel, designed to distribute the force applied to the rubber fender, is the outer facing component, against which a berthing vessel glides into dock.

....

....

The applicable subheading **for the plastic faced steel panel and rubber fender imported together** will be **7308.90.9590**, HTSUS, which provides for structures and parts of structures...of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel, other, other, other, other, other. The rate of duty will be free.

18. From the perusal of above, the applicant also believes that even when the frames and fascia pads are supplied i.e. the supply is made for fender panel system excluding the fixtures, the supply would still merit classification under Heading 7308. Accordingly, the Applicant would like to draw reference to Schedule III of CGST Notification No.01/2017 – Central Tax (Rate) that prescribes GST rate of 18% for product falling under Chapter Heading 7308. The relevant extract has been provided hereunder for easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
251	7308	Structures (excluding prefabricated buildings of heading 94.06) and parts of structures (for example, bridges and bridge sections, lock - gates, towers, lattice masts, roofs, roofing frame - works, doors and windows and their frames and thresholds for doors, and shutters, balustrades, pillars, and columns), of iron or steel; plates, rods, angles, shapes, section, tubes and the like, prepared for using structures, of iron or steel [other than transmission towers]

19. On conjoint reading of above, the Applicant believes that the supply of fender panel system merit classification under Heading 7308 90 and be taxed at GST at the rate of 18%.

- 10.** The applicant has submitted their interpretation of law in respect of their question seeking Advance Ruling i.e. Question-3 as under:

Question-3(Part C) – Whether supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.1/2017 dated June 28, 2017 (as amended)?

1. The applicant requires to supply fender panel system along with services such as assembly, installation & supervision as per the requirements of the customer. Further, the Applicant would like to submit that the price

/consideration for fender panel system and services would be separate and individual invoices would be issued for supply of goods and supply of service. Considering this, the Applicant wishes to understand whether the present case qualifies to be composite supplies.

2. Before discussing the composite supply, the Applicant would like to submit that the present supply would not qualify as 'works contract' service. The definition of 'works contract' has been provided in the CGST Act which has been reproduced hereunder for your easy reference:

"(119) "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;"

3. Accordingly, one of the essential conditions to qualify as works contract supply is that the fabrication, erection, fitting out, modification, alteration work is carried out for an immovable property. The term immovable property has not been defined in the CGST or IGST Act and accordingly, recourse can be taken from other relevant acts to understand the meaning of the term 'immovable property'. As per General Clauses Act, 1897, the term 'immovable property' has been defined as under:

"(26) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;" Attached to the earth condition not getting fulfilled"

4. As the expression 'attached to the earth' has not been defined in the General Clause Act, reference can be drawn from Section 3 of Transfer Property Act which gives the following meaning to the expression "attached to the earth":

*"(a) rooted in the earth, as in the case of trees and shrubs,
(b) embedded in the earth, as in the case of walls or buildings, and
(c) attached to what is so embedded for permanent beneficial enjoyment of that to which it is attached."*

5. From above, the Applicant understands that immovable property would mean anything that is permanently fastened to the earth. Considering this, it would be important to discuss whether the supplies in present case result into 'immovable property'. In such a scenario, the Applicant would like to refer to certain decisions of the erstwhile regime wherein it has been discussed as to what constitutes immovable property. Although these decisions relate to the erstwhile regime, the fundamental principles laid down in these decisions would still hold good.

6. In the case of *Municipal Corporation of Greater Bombay Vs. Indian Oil Corporation Ltd.* [AIR 1991 SC 686 = 1991 Supp (2) SCC 18], the Supreme Court has held that the test was one of permanency, if chattel is movable to another place as such for use, it is movable property but if it has to be dismantled and reassembled and re-erected at another place for such use, such chattel would be immovable property.

7. In the case of *Triveni Engineering & Industries Ltd Vs. Commissioner of Central Excise* [(2000) 120 ELT 273 (SC)], the Apex Court observed that while determining whether an article is permanently fastened to anything attached to the earth, both the intention as well as the factum of fastening has to be ascertained from the facts and circumstances of each case.

8. Considering above judicial precedents with the present facts, the Applicant would like to submit as under.
- The fenders panel system can be easily shifted at another location without any complex dismantling process and hence the supplies are not resulting in any immovable property
 - Normally, the fender panel system are dismantled on a periodical basis as these would suffer wear and tear after a certain period. Accordingly, these are not permanently fixed to earth of jetty and as per the permanence theory, the supplies does not result into erection of an immovable property.
 - The important condition of attached to the earth is absent in present case, and therefore, the supplies does not result into erection of an immovable property.
9. Considering the above, the Applicant believes that present supply does not qualify to be works contract supply.
10. Thus, seeing the discussion on composite supply in Part B, the Applicant submits that all conditions for composite supply is also fulfilled in present case. Further, the Applicant would like to submit that this is the practice followed by trade wherein as per requirement of customer, the supplier would provide fender penal system along with installation services.

Conditions of composite supply	Fulfilled in present case
Supplies to be made by a taxable person	Yes
Supply should consist of two or more taxable supplies of goods or services	Yes
The various components of such supply should be naturally bundled and in conjunction with each other	Yes
One of supply is principal supply	Yes, fender panel system

11. Therefore, the Applicant believes that the present case would qualify to be composite supply wherein the supply of fender panel system is the principal supply which provides essential character to the entire bundle of supply of goods as well as installation service by the Applicant. Therefore, the Applicant believes that the supply of fender panel system would merit classification under Heading 7308 90. Accordingly, the Applicant would like to draw reference to Schedule III of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 18% for product falling under Chapter Heading 7308 90. The relevant extract has been provided hereunder for easy reference:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
251	7308	<i>Structures (excluding prefabricated buildings of heading 94.06) and parts of structures (for example, bridges and bridge sections, lock - gates, towers, lattice masts, roofs, roofing frame - works, doors and windows and their frames and thresholds for doors, and shutters, balustrades, pillars, and columns), of iron or steel; plates, rods, angles, shapes, section, tubes and the like, prepared for</i>

		<i>using structures, of iron or steel [other than transmission towers]</i>
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11. The applicant has given his interpretation of law in respect of the third question seeking Advance Ruling i.e. Question-4 as under:

Question-4(Part D) – Whether supply of installation service where usage of chemical is essential to provide effective service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax thereon in accordance with Notification # 11/2017 dated June 28, 2017 (as amended)?

1. The Applicant, as per the requirements of the customer, enters into a contract to provide installation services for marine fendering systems or fender panel system. In this case, though the customer desires the Applicant to provide installation services, the customer also specifies the chemical of particular brand to be used for installation services.
2. The value of chemical is not separately mentioned in contract or sale invoice. It is important to note that customers do not intend to procure chemical or the chemical would not be handed over to customers. Further, the customer simply states usage of chemical of particular brand for providing effective service and the consideration has no nexus with quantity of chemical to be used. In nutshell, the chemical is consumed during the course of providing installation service. The sample copy of work order issued by customer and supply invoices are enclosed as **Annexure J**.
3. Accordingly, the Applicant wishes to know whether such supply of installation service involving chemical supply constitute composite supply.
4. As discussed and elaborated in Part B & C on essential ingredients of composite supply, the Applicant believes that the present case qualifies to be a composite supply wherein the installation service is the principal supply and usage and supply of chemical during the course of providing such service is an ancillary supply.
5. The Applicant would also like to draw reference to Circular No.34/8/2018-GST dated March 1, 2018 wherein it has been clarified that the rubber used during the course of retreading of tyres is an ancillary supply and retreading would form the pre-dominant element of supply. The relevant extract has been reproduced hereunder:

S. No.	Issue	Clarification
2	<i>Whether retreading of tyres is a supply of goods or services?</i>	<i>In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature</i>

		<i>of the composite supply and which element of the supply imparts that essential nature to the composite supply.</i>
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6. Similarly, in Circular No.11/11/2017-GST dated October 20, 2017, clarification has been provided with respect to printing contracts wherein the paper used by the printer is also supplied by the printer. The relevant extract of the Circular has been reproduced hereunder:
“4. In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.”
7. Moreover, in the case of *G.E. Diesel Locomotive (P) Ltd*, the applicant had made a bid for a tender floated by the Indian Railways for supply of locomotive engines and their comprehensive maintenance. While discussing whether supply of comprehensive annual maintenance service involving incidental supply of spare parts/goods should be classified as a composite supply or mixed supply, the Uttar Pradesh AAR observed the following:
“Since the supply of maintenance service is for a one and fixed price with or without supply of spare parts/goods and supply of service and goods is made in conjunction with each other in the ordinary course as per maintenance contracts, this maintenance service to the extent of presence of all the necessary ingredients cited in the legal provisions quoted supra, is naturally bundled with the incidental supply of goods, it is case of composite supply of service”
8. Additionally, in the case of *Khedut Hat [2018-TIOL-173-AAR-GST]*, the Applicant procured explosives for blasting activity and based on the information received from the client as to the number of holes to be charged at the site, filled holes with explosives. Thereafter, through a designed network, the Applicant would carry out blasting work such that such holes are blasted in a sequence as required. The explosives are neither handed over to the client nor is it in possession of client; that any quantity of explosives or other material left after carrying out blasting activity is transferred back to the Magazine of the applicant. While determining whether the present supply is supply of goods or supply of service, the Gujarat AAR observed the following:
“In the present case applicant uses explosives in the blasting activity at their client's site. Thus it would be evident that blasting activity is carried out by the applicant for their client for which the applicant uses explosives. The applicant carries out blasting work with the aid of explosives. Thus, there is deemed supply of explosives in this case in view of the judgement of Hon'ble Supreme Court in the case of Bharat Pest Control (supra) as well as the supply of service in the form of the blasting work. Therefore, the situation as narrated by the applicant is a composite supply of goods and services and shall be covered by Section 2(30) and Section 8(a) of the CGST Act, 2017.”
9. Considering the above advance rulings and circulars, the Applicant wishes to submit that in cases where materials are consumed during provision of a service, such cases would qualify to be composite supply of goods as well as service wherein the supply of service would be the principal supply. Accordingly, the Applicant believes that the present case qualifies to be a composite supply wherein installation service would be principal supply and supply of chemical is an ancillary supply.

10. Considering the present supply would qualify to be a supply of service, the Applicant believes that the present supply would qualify under SAC 998739 – ‘Installation services of other goods n.e.c.’ leviable to GST @ 18%. The relevant extract of Notification No.11/2017 dated June 28, 2017 (as amended) has been provided hereunder:

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
25	Heading 9987	(i) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv)].
		(ii) Maintenance, repair and installation (except construction) services, other than (i) above [and serial number 38 below]	9	-

DISCUSSION & FINDINGS:

12. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative Shri Kumar Parekh at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

13. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to similar provisions of the GGST Act.

14. Based on the submission of the applicant as well as the arguments/discussions made by the representative of the applicant during the course of personal hearing, we find that there are four different issues to be discussed in respect of which the applicant has asked four questions seeking Advance Ruling on the same. They are as under:

Question-1(Part-A) –What would be the classification of the following products under GST and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).

Sr. No.	Products
1	Bollards
2	Bolts, nuts, screw, washer etc. known as fixtures
3	Frontal Frames
4	Fascia Pads – UHMW PE pads
5	Buoys
6	Chains/Swivel/D-Shackle/Chain tensioner
7	Rubber Fender (both types)

Question-2(Part-B): Whether supply of few products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).

Question-3(Part-C): Whether supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.1/2017 dated June 28, 2017 (as amended)?

Question-4(Part-D): Whether supply of installation service where usage of chemical is essential to provide effective service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax thereon in accordance with Notification No.11/2017 dated June 28, 2017 (as amended)?

15. We will take up all the above questions for discussion one by one. The first question pertains to 7 different products supplied by the applicant. The names of these products, their classification as well as the corresponding rate of GST as per the view of the applicant are mentioned hereunder:

Sr. No.	Products	Classification as per the Customs Tariff Act, 1975	Rate of GST liability as per the applicant
1	Bollards	7325	18%
2	Bolts, nuts, screw, washer etc. known as fixtures	7318	18%
3	Frontal Frames	7326	18%
4	Fascia Pads – UHMW PE pads	3920	18%
5	Buoys	8907	5%
6	Chains/Swivel/D-Shackle/Chain tensioner	7315	18%
7	Rubber Fender (both types)	4016	18%

16. Before taking up the discussion of each of the aforementioned products, we find it necessary to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 containing the headings, sub-headings as well as the rates of

Central Tax GST applicable to various goods which are covered under 6 schedules as under:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI

Further, Explanation (iii) and (iv) of the said Notification reads, as under:

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

17. In view of the above, we will be required to refer to the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) in order to find out the correct classification of the said products mentioned in para-15 above. Taking up the discussion of each of the aforementioned products serial-wise, we will take up the product ‘**Bollards**’ first. As per the submission of the applicant, Bollard is a sturdy, vertical post used principally as an anchoring point for boats/ vessels. Ropes from vessel/ship are tied on the bollard barrel during the stay of vessel/ ship at the berth/jetty to secure stationery position in the seabed which prevents the ship/ vessel from being carried away by the waves. This product is manufactured from ductile iron, SG iron and cast steel which are pre-dominant inputs to make marine bollards which are made in various shapes as per the specific requirements of the customer like tee bollard, horn bollard and kidney shaped bollard. Since, the applicant has submitted that the major/important raw materials used in the making of the said product as Cast iron, SG iron and cast steel, we find that the product should ideally be covered under Chapter 73 of the Customs Tariff Act, 1975 (51 of 1975) i.e. “Articles of Iron and Steel”. Also, as per the applicant, the said product is classifiable under Sub-heading 7325. On going through the said Chapter, we do not find any specific mention of the product ‘Bollards’ in any of the sub-headings of Chapter 73. Therefore, we find it necessary to go through the Chapter notes of Chapter 73 as well as the Explanatory notes to HSN in respect of Chapter 73. We also find that the Explanatory notes to Chapter 73 also includes the Chapter Notes of Chapter 73 of the Customs Tariff Act, 1975. Explanatory notes to Chapter 73 read as under:

NOTES :

1. In this Chapter, the expression “cast iron” applies to products obtained by casting in which iron predominates by weight over each of the other elements and which do not comply with the chemical composition of steel as defined in Note 1(d) to Chapter 72.
2. In this Chapter, the word “wire” means hot or cold-formed products of any cross-sectional shape, of which no cross-sectional dimension exceeds 16 mm.

GENERAL

This chapter covers a certain number of specific articles in headings 73.01 to 73.24 and in heading 73.25 and 73.26 a group of articles not specified or included in Chapter 83 or 83 and not falling in other Chapters of Nomenclature, of iron (including cast iron as defined in Note 1 to this Chapter) or steel.

For the purposes of this Chapter, the expressions “tubes and pipes” and “hollow profiles” have the following meanings hereby assigned to them:

(1) Tubes and pipes:

Concentric hollow products, of uniform cross-section with only one enclosed void along their whole length, having their inner and outer surfaces of the same form. Steel tubes are mainly of circular, oval, rectangular (including square) cross-sections but in addition may include equilateral triangular and other regular convex polygonal cross-sections. Products of cross-section other than circular, with rounded corners along their whole length, and tubes with upset ends, are also to be considered as tubes. They may be polished, coated, bent (including coiled tubing), threaded and coupled or not, drilled, waisted, expended, cone shaped or fitted with flanges, collars or rings.

(2) Hollow profiles:

Hollow products not conforming to the above definition and mainly those not having their inner and outer surfaces of the same form.

The General Explanatory Note to Chapter 72 applies, *mutatis mutandis*, to this Chapter.

Further, explanatory notes to HSN in respect of Sub-heading 7325 reads as under:

73.25 – Other cast articles of iron or steel.

7325.10 - Of non-malleable cast iron.

- Other:

7325.91 – Grinding balls and similar articles for mills.

7325.99 – Other.

This heading covers all cast articles of iron or steel, not elsewhere specified or included. The heading includes inspection traps, gratings, drain covers and similar castings for sewage, water etc. systems; hydrant pillars and covers; drinking foundations; pillar-boxes, fire alarm pillars, **bollards** etc; gutters and gutter spouts; mine tubing; balls for use in grinding and equipment; counterweights; imitation flowers, foliage etc. (except articles of heading 83.06); mercury bottles.

This heading does not cover castings which are products falling in other headings of the Nomenclature (e.g. recognisable parts of machinery or mechanical appliances) or unfinished castings which require further working but have the essential character of such finished products.

The heading also excludes:

(a) Articles of a kind described above obtained by processes other than casting (e.g. sintering) (heading 73.26).

(b) Statues, vases, urns and crosses of the type used for decoration (heading 83.06).

18. On going through the above explanatory notes to HSN of sub-heading 7325, we find that there is specific mention of the product ‘bollards’. We therefore, need to find out the specific tariff sub-heading under which the said product falls, for which we will require to refer to Sub-heading 7325 as appearing in the Customs Tariff Act, 1975(51 of 1975). The same reads as under:

7325 OTHER CAST ARTICLES OF IRON OR STEEL

7325 10 00 - Of non-malleable cast iron

- Other :

7325 91 00 -- Grinding balls and similar articles for mills -

7325 99 -- Other :

7325 99 10 --- Of iron -

7325 99 20 --- Of alloy steel

7325 99 30 --- Of stainless steel

--- Other :

7325 99 91 ---- Rudders for ships or boats

7325 99 92 ---- Drain covers kg. 15% -

7325 99 93 --- Plates and frames for sewage water or similar system -
7325 99 99 --- Other

19. On going through the above, and comparing the same with the description of the aforementioned product and the photographs provided by the applicant, we find that 'bollards' would be rightly covered under Tariff heading 73259999. Having decided the classification of the product 'bollard' we are required to find out the rate of GST liability of the said product for which we will be required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time). On going through the same, we find that Sub-heading 7325 finds mention at Entry No.237 of Schedule-III of the said notification wherein the GST liability is 18% (9% SGST + 9% CGST) which reads as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
237	7325	<i>Other cast articles of iron or steel; such as Grinding balls and similar articles for mills, Rudders for ships or boats, Drain covers, Plates and frames for sewage water or similar system.</i>

Sr.No.237 of Schedule-III of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 was amended vide Notification No.41/2017-Central Tax(Rate) dated 14.11.2017 vide which the above column under '*Description of goods*' was amended to read as '*Other cast articles of iron or steel*'(w.e.f. 15.11.2017).

20. The next product whose classification is required to be determined is **Bolts, nuts, screws, washer etc. known as fixtures**. As per the submission of the applicant, fixtures are made of iron and steel and would generally mean something that is used to set an article firmly in a place and it includes all kinds of fixtures and fasteners i.e. Bolts, Anchors, Nuts & washers; that the Heading 7318 covers screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotterpins, washers (including spring washers) and similar articles, of iron or steel and for better understanding, it would be relevant to comprehend general meaning of each of the terms:

- A bolt is mechanical fastener used with a nut for connecting two or more parts. It consists of a head and a cylindrical body with screw threads along a portion of its length
- A nut is a piece of metal, usually square or hexagonal in shape, with a hole through it having machined internal threads, intended to be screwed onto a bolt
- A screw is a type of fastener, similar to a bolt, with a thin pointed piece of metal with a raised edge twisting round its length and a flat top with a cut in it, used to join things together
- A fastener is a hardware device that mechanically joins or affixes two or more objects together

21. In view of the above, we find it necessary to refer to Sub-heading 7318 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which reads as under:

7318 SCREWS, BOLTS, NUTS, COACH-SCREWS, SCREW HOOKS, RIVETS, COTTERS, COTTER-PINS, WASHERS (INCLUDING SPRING WASHERS) AND SIMILAR ARTICLES, OF IRON OR STEEL

- Threaded articles :
- 7318 11 -- Coach screws :
- 7318 11 10 --- Machine screws -
- 7318 11 90 --- Other
- 7318 12 00 -- Other wood screws
- 7318 13 00 -- Screw hooks and screw rings

7318 14 00 -- Self-tapping screws

7318 15 00 -- Other screws and bolts, whether or not with their nuts or washers

7318 16 00 -- Nuts

7318 19 00 -- Other

- Non-threaded articles :

7318 21 00 -- Spring washers and other lock washers

7318 22 00 -- Other washers

7318 23 00 -- Rivets

7318 24 00 -- Cotters and cotter-pins

7318 29 -- Other :

7318 29 10 --- Circlips

7318 29 90 --- Other

22. On going through the above, and on comparing the same to the description of the products and photographs provided by the applicant, we find that fixtures such as bolts, nuts, screws and washers are specifically covered under the aforementioned sub-heading 7318 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). Further, the specific tariff headings of the said products would be as under:

Sr.No.	Name of the product	Tariff heading as per Customs Tariff Act, 1975
01.	Bolts	73181500
02.	Nuts	73181600
03.	Screws	73181500
04.	Washers	73182200

23. Having decided the classification of the above products, we need to find out the GST liability on the same for which we need to refer to Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time) and find that Sub-heading 7318 finds mention at Entry No.232 of Schedule-III of the said notification on which GST liability is 18%(9% SGST + 9% CGST). The same reads as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
232	7318	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel.

24. The next product whose classification is required to be determined is **Frontal Frames**. As per the submission of the applicant, these Frontal frames are steel structures which are fabricated & painted, that they are closed box structure of steel pneumatically leak tested to make sure that there are no punctures on it and it is made out of horizontal and vertical steel beam sections of steel **which is self-buoyant and a floating structure** and the use of this structure is to reduce the impact pressure on the ship/hull as per requirement. Since the applicant has submitted that the 'Frontal frames' are covered under Sub-heading 7326 of the Customs Tariff Act, 1975(51 of 1975), we will refer to Sub-heading 7326 which reads as under:

7326 OTHER ARTICLES OF IRON OR STEEL

- Forged or stamped, but not further worked :

7326 11 00 -- Grinding balls and similar articles for mills

7326 19 -- Other :

7326 19 10 --- For automobiles and earth moving equipments

7326 19 90 --- Other

7326 20 - Articles of iron or steel wire :

7326 20 10 --- Tyre bead wire rings intended for use in the manufacture of tyres for cycles and cyclerickshaws

7326 20 90 --- Other

7326 90 - Other :

7326 90 10 --- Belt lacing of steel

7326 90 20 --- Belt fasteners for machinery belts

7326 90 30 --- Drain covers, plates, and frames for sewages, water or similar system

7326 90 40 --- Enamelled iron ware

7326 90 50 --- Grinding media balls and cylpebs

7326 90 60 --- Manufactures of stainless steel

7326 90 70 --- Articles of clad metal

7326 90 80 --- Parts of ships, floating structure and vessels (excluding hull, propellers and paddle-wheels)

--- Other :

7326 90 91 --- Shanks

7326 90 99 --- Other

25. Looking to the description of the product given by the applicant as well as the photographs of the Frontal frames provided by the applicant and comparing the same to the above, it appears that the said product will be rightly covered under Sub-heading 7326 and specific tariff heading 73269080 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). Having determined the classification of 'Frontal frames', we need to find out the GST liability on the said product, for which we need to refer to Notification No.01/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time) and find that Sub-heading 7326 finds mention at Entry No.238 of Schedule-III of the said notification on which GST liability is 18%(9% SGST = 9% CGST). The same reads as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
238	7326	Other articles of iron and steel, forged or stamped, but not further worked; such as Grinding balls and similar articles for mills, articles for automobiles and Earth moving implements, articles of iron or steel Wire, Tyre bead wire rings intended for use in the manufacture of tyres for cycles and cycle-rickshaws, Belt lacing of steel, Belt fasteners for machinery belts, Brain covers, plates, and frames for sewages, water or similar system, Enamelled iron ware (excluding utensil & sign board), Manufactures of stainless steel (excluding utensils), Articles of clad metal.

Sr.No.238 of Schedule-III of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 was amended vide Notification No.41/2017-Central Tax(Rate) dated 14.11.2017 vide which the above column under 'Description of goods' was amended to read as 'Other articles of iron or steel'(w.e.f. 15.11.2017).

26. The next product whose classification is required to be determined is **Fascia Pads – UHMW PE pads**. As per the submission of the applicant, Fascia pads are also known as UHMW PE Pads wherein UHMW PE stands for Ultra-high-molecular-weight polyethylene which means that pads are made of high quality of plastics and are applied on the frame structure on which vessels/ship hull touches; that they are applied to reduce frictional load between ship/vessel and frame structure during berthing the vessels/ship; that they are made from polyethylene i.e. polymers of ethylene which would mean things mainly made from ethylene and therefore, they submit that fascia pads made from polyethylene would merit classification of tariff code 3920 1099. We therefore, feel the need to refer to the relevant portion of Sub-heading of the Customs Tariff Act, 1975 (51 of 1975) which reads as under:

3920 OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS, NON-CELLULAR AND NOT REINFORCED, LAMINATED, SUPPORTED OR SIMILARLY COMBINED WITH OTHER MATERIALS

3920 10 - Of polymers of ethylene :

- Sheets of polyethylene :
- 3920 10 11 --- Rigid, plain
- 3920 10 12 --- Flexible, plain
- 3920 10 19 --- Other
- Other :
- 3920 10 91 --- Rigid, plain
- 3920 10 92 --- Flexible, plain
- 3920 10 99 --- Other
- 3920 20 - Of polymers of propylene :
- 3920 20 10 --- Rigid, plain
- 3920 20 20 --- Flexible, plain -
- 3920 20 90 --- Other
- 3920 30 - Of polymers of styrene :
- 3920 30 10 --- Rigid, plain
- 3920 30 20 --- Flexible, plain
- 3920 30 90 --- Other



27. On going through the above, we find that Tariff heading 3920 covers plates, sheets, film, foils and strips of plastics combined with other materials and Tariff heading 392010 covers sheets of polyethylene. Images of UHMW PE pads (as obtained from internet) are placed above. Also, as described by the applicant, fascia pads are made of high quality of plastics (polyethylene)and are applied on the frame structure on which vessels/ship hull touches. In this regards, we would like to refer to the decision of **Veer Plastic Pvt. Ltd. Vs. Collector of Central Excise, Ahmedabad [2004 (168) E.L.T. 255 (Tri. - Del.)]**, (which was also referred to by the applicant) wherein it was held that HDPE (High-density polyethylene) tapes or strips would be classifiable under 3920. Further, keeping in view the above description of the product as well as the photographs provided by the applicant, we find that the 'Fascia pads' which are sheets of polyethylene(made from polymers of ethylene) would be rightly classifiable under the Tariff heading 39201099 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). Having decided the classification of 'Fascia pads', we need to find out the GST liability of the said product for which a reference will be required to be made to Notification No.01/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time). On going through the said notification, we find that Sub-heading 3920 finds mention at Sr.No.106 of Schedule-III of the said notification on which GST liability is 18%(9%SGST + 9% CGST). The same reads as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
106	3920	Other plates, sheets, film, foil and strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.

28. The next product whose classification needs to be determined is **Buoys**. As per the submission of the applicant, the main raw materials which are used in the manufacture of the said product are steel, foam and wall protection fender. They have stated that Buoys are floating structure of steel used in the

middle of seas as locators or as warning points for the ships/vessels and mooring buoys are a type of buoy, to which, ships can be moored in the deep oceanic areas; that Buoys are mainly made from steel and it is nothing but round shaped structure of steel and in order to maintain buoyancy or to enable the structure to float on water, foam is filled up in the structure and once this is done, it is painted with bright color so as to ensure its visibility. The applicant has also submitted that the said product would merit classification under Sub-heading 8907 of the Customs Tariff Act, 1975(51 of 1975). On referring to sub-heading 8907, the same reads as under:

*8907 OTHER FLOATING STRUCTURES (FOR EXAMPLE, RAFTS,TANKS, COFFER-DAMS, LANDING-STAGES, **BUOYS** AND BEACONS)*

*8907 10 00 - Inflatable rafts
890790 00 – Other*

29. Looking to the description of ‘Buoys’ as well as the photographs provided by the applicant , and comparing the same to the above, we find that the said product rightly merits classification under the Tariff Heading 89079000 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). Having decided the classification of ‘Buoys’, we need to find the GST leviable on the same for which a reference is required to be made to Notification No.01/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time). On going through the said notification, we find that Sub-heading 8907 finds mention at Sr.No.251 of Schedule-I of the said notification on which GST liability is 5%(2.5%SGST + 2.5% CGST). The same reads as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
251.	8907	Other floating structures (for example, rafts, tanks, coffer-dams, landing-stages, buoys and beacons).

30. The next product whose classification is required to be determined is of **Chains/Swivel/D-Shackle/Chain tensioner**. As per the submission of the applicant, the raw materials used for the manufacture of the said products are iron and steel. They have submitted photographs of the said products and sample copies of bill of entries and sales invoices. They have submitted that chain, swivel, d-shackle and chain tensioner are used to support frames to stand still and they are mainly made from steel. They have stated that on referring the explanatory notes for World Customs Organization, they observed that it is clearly stated that chains of cast iron, irrespective of dimensions, process of manufacture or, in general, their intended use will be classified under the given heading. They have referred to the explanatory notes of sub-heading 7315 that provide clarity on the classification of swivels and shackles and related accessories and have reproduced the relevant portion of the same as under:

*All these chains may be fitted with terminal parts or accessories (e.g. hooks, spring hooks, **swivels, shackles**, sockets, rings and split rings and tee pieces). They may or may not be cut to length, or obviously intended for particular use. Iron or steel parts of chains specialized as such e.g. side links, rollers, spindles etc., for articulated chain, links and shackles for non – articulated chain also fall in this heading.*

31. The applicant feels that in light of the above, chains, swivels, d-shackle and chain tensioner should be classified under heading 7315. Sub-heading 7315 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975) reads as under:

7315 CHAIN AND PARTS THEREOF, OF IRON OR STEEL

- Articulated link chain and parts thereof :

7315 11 00 -- Roller chain

7315 12 -- Other chain :

7315 12 10 --- Lifting and hoisting chain

7315 12 20 --- Ship chain

7315 12 90 --- Other

7315 19 00 -- Parts

7315 20 00 - Skid chain

- Other chain :

7315 81 00 -- Stud-link

7315 82 00 -- Other, welded link

7315 89 00 -- Other

7315 90 00 - Other parts

32. Since, there is no specific entry for the products i.e. swivel, shackles and chain tensioner under the said sub-heading, we find it prudent to refer to the Explanatory notes to Sub-heading 7315 of the Customs Tariff Act, 1975 which reads as under:

“This heading covers chains of cast iron (usually malleable cast iron) wrought iron or steel, regardless of their dimensions, process of manufacture or, in general, their intended use.

It includes articulated link chain (e.g. roller chain, inverted tooth (“silent”) chain and Galle chain), non-articulated link chain including stud-link chain (whether forged, cast, welded, stamped from sheet or strip metal or made from wire, etc.), and ball chain.

The heading includes:

- (1) Transmission chains for cycles, automobiles or machinery.*
- (2) Anchor or mooring chains; lifting, haulage or towing chains; automobiles skid chains.*
- (3) Mattress chains, chains for sink stoppers, lavatory cisterns, etc.*

*All these chains may be fitted with terminal parts or accessories (e.g., hooks, spring books, **swivels**, **shackles**, sockets, rings and split rings and tee pieces). They may or may not be cut to length, or obviously intended for particular uses.*

*Iron or steel parts of chains specialised as such e.g. side links, rollers, spindles, etc., for articulated chain, links and **shackles for non-articulated chain**, also fall in this heading.*

This heading does not cover:

- (a) Chains having the character of imitation jewellery in the sense of heading 71.17(e.g. watch chains and trinket chains).*
- (b) Chains fitted with cutting teeth, etc., and used as chain saws or cutting tools(Chapter 82), or other articles in which chains play a subsidiary role such as bucket chains, conveyor hook chains or stretchers for textile finishing.*
- (c) Door guards fitted with chains(heading 83.02).*
- (d) Surveying chains(heading 90.15).*

33. On going through the details provided under Sub-heading 7315 as per the Customs Tariff Act, 1975, the explanatory notes of HSN in respect of sub-heading 7315, the description of the aforementioned products given by the applicant and comparing the same to the issue in hand, we find that chains would be rightly classifiable under Tariff heading 73158900 whereas d-shackles and swivels would be rightly classifiable under Tariff heading 73159000(being parts or accessories). However, since we do not find any specific mention of chain tensioners any where, we find it necessary to know what a chain tensioner is. We therefore, find it prudent to refer to the definition of a ‘chain tensioner’ as per the dictionary. The same reads as under:

*“Excessive **chain** sag can cause vibration and excessive noise and prevent*

the **chain** from properly engaging the sprocket, which prevents the **chain** from operating smoothly. **Chain Tensioners** adjust slackness in the **chain** to enable continuous and proper **chain** operation..”

34. From the above description, it appears that the said product is a device which forms a part or accessory to a chain which adjusts slackness in the chain to enable continuous and proper chain operation and would therefore be rightly classifiable under Tariff heading 73159000 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). Now, having decided the classification of the products i.e. chains, d-shackles, swivels and chain tensioners, we need to find out the GST liability on the same for which we need to refer to Notification No.01/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time). On going through the said notification, we find that Sub-heading 7315 finds mention at Sr.No.229 of Schedule-III of the said notification on which GST liability is 18%(9%SGST + 9% CGST). The same reads as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
229	7315	Chain and parts thereof, of iron or steel falling under 7315 20, 7315 81, 7315, 82, 7315 89, 7315 90

35. The next product whose classification is required to be determined is **Rubber fenders**. As per the submission of the applicant, the raw materials used in the manufacture of rubber fenders are rubbers and air foams. They have stated that rubber fenders are primarily used as “bumpers” to absorb collision energy during contact between the vessel and docks (or even other vessels); that massive sea vessels are embedded with rubber fenders on the outer surface of the vessel or installed on the docks in some cases and the primary objective of the rubber fenders on the dock is to absorb collision energy during the berthing process which in return protects both the ship and the dock after collision; that there are generally two types of rubber fenders viz. pneumatic rubber fender and foam rubber fender for which they have submitted photographs of the same and submitted the description as under:

- (a) Pneumatic rubber fenders are made out of rubber and strengthening cord layers. This rubber fender is filled with air. Solid rubber fenders have been used for ages since they are readily available and are considered long lasting. Pneumatic Rubber fenders come in different forms including cell rubber fender, cone rubber fender, arch type, unit element fender, cylindrical type CY, “D” type fender, square shaped, keyhole version, cylindrical tug fender, “W” version, “M” version etc. The photos are reproduced hereunder for easy understanding of the product:
- (b) Foam rubber fenders, made out or rubber and foam, are also used to absorb collision energy during contact between the vessel and docks (or even other vessels). Foam rubber fenders are manufactured from high quality foam and thereafter covered by reinforced polyurethane elastomer i.e. rubber. The performance of foam filled rubber fenders can be modified by changing the grades of foam. This also gives more flexibility to foam filled rubber fenders in meeting different requirements of berthing energy and reaction force as compared to same size of fenders. Foam filled rubber fenders can also be equipped with a chain and tire net for rough applications. Since there is no air pressure inside this fender similar to pneumatic rubber fender, there is no risk of deflating, bursting or sinking. As there are no end fittings like safety valves, ball valves etc., there is less maintenance required for Foam filled rubber fenders compared to Pneumatic rubber fenders.

- (c) The closed-cell foam structure retains performance even if a fender's skin is punctured. The closed cell internal structure prevents water ingress into the foam. It is important to note that in pneumatic rubber fender, air is contained in fender whereas in foam rubber fender, foam is contained in fender.

36. The applicant has stated that as per the above description, the aforementioned products are classifiable under Tariff heading 40169400. Sub-heading 4016 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975) reads as under:

4016 OTHER ARTICLES OF VULCANISED RUBBER OTHER THAN HARD RUBBER

4016 10 00 - Of cellular rubber

- Other :

4016 91 00 -- Floor coverings and mats

4016 92 00 -- Erasers

4016 93 -- Gaskets, washers and other seals :

4016 93 10 --- Patches for puncture repair of self-vulcanising rubber or a rubber backing

4016 93 20 --- Rubber rings (O-ring)

4016 93 30 --- Rubber seals (Oil seals and the like)

4916 93 40 --- Gaskets

4016 93 50 --- Washers

4016 93 60 --- Plugs

4016 93 90 --- Other

4016 94 00 -- Boat or dock fenders, whether or not inflatable

4016 95 -- Other inflatable articles:

4016 95 10 --- Air mattresses

4016 95 90 --- Other

4016 99 -- Other :

4016 99 10 --- Rubber cots for textile industry

4016 99 20 --- Rubber bands

4016 99 30 --- Rubber threads

4016 99 40 --- Rubber blankets

4016 99 50 --- Rubber cushions

4016 99 60 --- Rubber bushes

4016 99 70 --- Ear plug -

4016 99 80 --- Stoppers

4016 99 90 --- Other

37. Looking to the description of 'Rubber fenders' as well as the photographs provided by the applicant , and comparing the same to the above, we find that the said product rightly merits classification under the Tariff Heading 40169400 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975), which reads as **Boat or dock fenders, whether or not inflatable**. Having decided the classification of 'Rubber fenders', we need to find the GST leviable on the same for which a reference is required to be made to Notification No.01/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time). On going through the said notification, we find that Sub-heading 4016 finds mention at Sr.No.49 of Schedule-IV of the said notification on which GST liability is 28%(14%SGST + 14% CGST). The same reads as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
49	4016[other than 40169200]	Other articles of vulcanised rubber other than hard rubber (other than erasers)

The aforementioned notification was amended vide Notification No.27/2017-Central Tax(Rate) dated 22.09.2017 wherein Entry No.123A was inserted in Schedule-III of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
123A	4016	Rice rubber rolls for paddy de-husking machine”

Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 was further amended vide Notification No.41/2017-Central Tax(Rate) dated 14.11.2017 wherein Entry No.123A of Schedule-III was amended to read as under:

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods
123A	4016	Other articles of vulcanised rubber other than hard rubber [other than erasers, rubber bands]

Further, vide the aforementioned notification, Entry No.49 of Schedule-IV of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 was omitted w.e.f. 15.11.2017. In view of the above, the aforementioned product will be covered under Entry No.49 of Schedule-IV of the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 (upto 14.11.2017) and under Entry No.123A of Schedule-III of the said Notification w.e.f. 15.11.2017. Therefore, the rate of GST in respect of the aforementioned sub-heading i.e. 4016 will be 28% (14% SGST + 14% CGST) upto 14.11.2017 and 18%(9% SGST + 9% CGST) w.e.f. 15.11.2017.

38. In view of the above discussions, the classification of the following products under GST and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended from time to time) is as under:

Sr.No.	Name of the product	Sub-heading/ Classification as per the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)	Rate of tax(GST)
01.	Bollards	73259999	18%(9% SGST + 9% CGST)
02.	Bolts (fixtures)	73181500	18%(9% SGST + 9% CGST)
03.	Nuts (fixtures)	73181600	18%(9% SGST + 9% CGST)
04.	Screw (fixtures)	73181500	18%(9% SGST + 9% CGST)
05.	Washer (fixtures)	73182200	18%(9% SGST + 9% CGST)
06.	Frontal Frames	73269080	18%(9% SGST + 9% CGST)
07.	Fascia Pads - UHMW PE pads	39201099	18%(9% SGST + 9% CGST)
08.	Buoys	89079000	5%(2.5% SGST + 2.5% CGST)
09.	Chains	73158900	18%(9% SGST + 9% CGST)
10.	Swivel/D-Shackle/ Chain tensioner	73159000	18%(9% SGST + 9% CGST)
11.	Rubber Fender (both types)	40169400	(i)28%(14%SGST + 14%CGST) upto 14.11.2017. (ii)18%(9%SGST + 9%CGST) from 15.11.2017 onwards.

39. We are now required to discuss the second question seeking Advance Ruling. The question reads as under:

“Question-2(PART-B) Whether supply of few products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).”

40. The applicant has submitted his view point for the aforementioned supply being a composite supply as under:

- (a) Many a times, they receive orders from the customers wherein the customer wishes to purchase frames along with fascia pads and fixtures and this entire set is known as fender panel system within trade & industry. The applicant has submitted sample copy of amendment of purchase order issued by customer and photograph of the fender panel system.
- (b) The supply of products such as frontal frames with fascia pads along with fixture as a complete set would be a 'Composite supply', as they satisfy all the conditions in order to be considered as a composite supply i.e. it consists of supply of two or more taxable supply of goods or services supplied by a taxable person(the applicant), all these goods are naturally bundled and in conjunction with each other and all the three together(in combination) form the principal supply.
- (c) The applicant has referred to an e-flyer issued by the CBIC on 'composite supply' and 'mixed supply' which provides insights on few indicators which can be used to determine that supplies are bundled in the course of business to support his above contention. The factors are reproduced hereunder:
 - (i) *If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.*
 - (ii) *Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.*
 - (iii) *The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service....*
 - (iv) *Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:*
 - *There is a single price or the customer pays the same amount, no matter how much package they actually receive or use*
 - *The elements are normally advertised as a package*
 - *The different elements are not available separately*
 - *The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected*
- (d) The above flyer has relied upon the Service Tax – Education Guide issued in erstwhile regime of Service Tax wherein the clarification were provided with respect to services bundled in the ordinary course of business.
- (e) The customer perceives fender panel system involving all items to be one set or system and in general, this is the similar practice followed by trade and industry. Further, this bundle of items is essential for each other and are naturally bundled even though same are also sold on individual basis.
- (f) The supply as per order of customer would be impacted if the Applicant does not supply all the goods required for fender panel system. The items

are sold on individual basis only when any of the item is damaged or has become non-usable which requires replacement of damaged item.

- (g) The applicant has placed reliance on few of the decisions of European Court of Justice such as *Card Protection Plan v. Customs and Excise Commissioners*, [1998] EUECJ C-349/96, & the case of *Levob Verzekeringen BV, OV Bank NV v. Staatssecretaris van Financiën*, [2005] EUECJ C-41/04, to support their contention.
- (h) Considering above discussion, the applicant submits that their supply qualifies to be naturally bundled as it has the following ingredients present in the transactions : (i) The perception of customer is to obtain all goods as a package. (ii) Trade & industry has similar practice to supply fender panel system including all goods. (iii) The nature of bundle is such that they are bundled in ordinary course of business. (iv) There is single price for package and advertised in the same manner. (v) Different products/goods are integral part of overall system.
- (i) Based on above, the applicant submits that the fender panel system is naturally bundled and in conjunction with each other. In present case, in order to identify principal supply, the Applicant has placed reliance on the Advance Ruling of NEC Technologies India Pvt. Ltd. vide Advance Ruling No. GUJ/GAAR/R/2020/07 dated May 19, 2020 by the Gujarat Advance Ruling Authority to support their contention.
- (j) Based on above discussion, the Applicant believes that this is composite supply of fender panel system wherein entire system is principal supply which is required by the customer. As per *Customs Tariff Act*, Heading 7308 specifically covers structures. They have relied upon ruling by the National Commodity Specialist Division of United States, dated July 02, 2009 which provides that the applicable subheading for the plastic faced steel panel and rubber fender imported together will be 7308.90.9590.
- (k) From the perusal of above, the applicant also believes that even when the frames and fascia pads are supplied i.e. the supply is made for fender panel system excluding the fixtures, the supply would still merit classification under Heading 7308. Accordingly, the supply would be considered as falling under Sub-heading 7308, falls at Sr.No.251 of Schedule III of CGST Notification No. 01/2017 – Central Tax (Rate) that prescribes GST rate of 18%.

41. On going through the copy of the amendment to Purchase order submitted by the applicant, we do find that frontal frames, fascia pads and fixtures find mention in the same order mentioning the value as well as the GST amount therein. We also find the applicant submitting that they get several such orders from customers but they have not submitted copies of any such purchase orders. Even otherwise, just because a customer orders for all the three aforementioned goods in a single order does not necessarily mean/prove that they are naturally bundled and supplied in conjunction with each other in the ordinary course of business. It also does not mean that asking for the supply of all the three goods together is the general trend in the market. Further, although they have mentioned in their submission that many a times, they receive orders from the customers wherein the customer wishes to purchase frames along with fascia pads and fixtures, that this entire set is known as fender panel system within trade & industry, that the perception of customer is to obtain all goods as a package and that the Trade & industry has similar practice to supply fender panel system including all goods etc., they

have not given any proof/evidence/document or any literature which suggests that as per general practice, these three goods are supplied together i.e. which can prove that these goods are naturally bundled and supplied in conjunction with each other in the ordinary course of business. In view of the above facts, and in the absence of any such proof/evidence having been submitted by the applicant to prove that these goods are naturally bundled, we find that the aforementioned supply of goods are not naturally bundled and are not supplied in conjunction with each other in the ordinary course of business but are supplied separately. We also find that nothing other than the copy of amendment to a purchase order has been submitted by the applicant i.e. no work order/contract etc. in the instant issue has been submitted. We are therefore, left with no option but to rely on the submission of the applicant and the available records to decide the type of supply.

42. In order to find out whether the aforementioned supply of Frontal frames, Fascia pads and Fixtures is a composite supply or otherwise, we will be required to refer to the definition of 'Composite Supply' as appearing in Section 2(30) of the CGST Act, 2017. Section 2(30) of the CGST Act, 2017 reads as under:

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Further, definition of principal supply as per Section 2(90) of the CGST Act, 2017 reads as under:

"(90) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;"

43. From the above, it can be seen that for being a composite supply, all the following conditions are required to be necessarily satisfied:

- (i) The said supply should be made by a taxable person to a recipient.
- (ii) It should consist of two or more taxable supplies of goods or services or both or any combination thereof.
- (iii) They should be naturally bundled and supplied in conjunction with each other in the ordinary course of business.
- (iv) One of the supplies must be a principal supply.

Comparing the above conditions to the issue in hand, we find as under:

- (i) The said supply is made by a taxable person i.e. the applicant, hence the first condition is satisfied.
- (ii) The said supply consists of supply of three different taxable supply of goods i.e. frontal frames, fascia pads and fixtures. It therefore consists of two or more taxable supplies of goods. Hence this condition is also satisfied.
- (iii) The supply of goods i.e. frontal frames, fascia pads and fixtures are not naturally bundled and not supplied in conjunction with each other in the ordinary course of business as discussed in the foregoing para. Further, although they have mentioned in their submission that many a times, they receive orders from the customers wherein the customer wishes to purchase frames along with fascia pads and fixtures, that this entire set is known as fender panel system within

trade & industry, that the perception of customer is to obtain all goods as a package and that the Trade & industry has similar practice to supply fender panel system including all goods etc., they have not given any proof/document/evidence or any literature which suggests that as per general practice, these three goods are supplied together i.e. which can prove that these goods are naturally bundled and supplied in conjunction with each other in the ordinary course of business. We, therefore, find that the supply of goods mentioned above are not naturally bundled nor supplied in conjunction with each other in the ordinary course of business. Hence this condition is not satisfied.

- (iv) The applicant has mentioned in their submission that this is composite supply of fender panel system wherein entire system is principal supply. However, as per the definition of 'Composite supply', one of the supplies should be a principal supply whereas the other supplies should be ancillary to it. However, that is not the case in this supply as none of the three supplies, individually, forms the principal supply. Hence this condition is also not satisfied.

In view of the above, since all the above conditions have not been satisfied, we conclude that the aforementioned supply of goods does not constitute a 'composite supply'

44. Having concluded that the aforementioned supply of goods and services is not a composite supply, the next thing required to be verified is whether the said supply gets covered under the definition of 'mixed supply' of services or otherwise. For the said purpose, we need to refer to the definition of 'mixed supply' as defined in Section 2(74) of the CGST Act, 2017 which reads as under:

"(74) "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;"

45. From the above, it can be seen that for being a mixed supply, all the following conditions are required to be necessarily satisfied:

- (i) The said supply should be made by a taxable person to a recipient.
- (ii) It should consist of two or more individual supplies of goods or services or any combination thereof.
- (iii) It should not constitute a composite supply.
- (iv) They should be made in conjunction with each other for a single price.

46. Comparing the above conditions to the issue in hand, we find as under:

- (i) The said supply is made by a taxable person i.e. the applicant, hence the first condition is satisfied.
- (ii) The said supply involves three individual supply of goods i.e. frontal frames, fascia pads and fixtures. Hence this condition is also satisfied.
- (iii) The said supply does not constitute a 'composite supply'. Hence this condition is also satisfied.
- (iv) The supply of goods i.e. frontal frames, fascia pads and fixtures can be said to have been made in conjunction with each other for a single price, since the applicant themselves have submitted that the said supply has been made for a single price. Hence this condition is also

satisfied.

47. In view of the above, since all the above conditions have been satisfied, we conclude that the aforementioned supply of goods constitutes a 'mixed supply'. Now, since it has been established that the aforementioned supply is a 'mixed supply', we will be required to find out the classification of the said supply and the rate of GST applicable thereon. For this purpose, we will be required to refer to Section 8 of the CGST Act, 2017 which reads as under:

"8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax."

48. On going through the above provisions, we find that a 'Mixed supply' comprising of two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax. However, we find that the supply of all the three goods involved in the said supply i.e. frontal frames, fascia pads and fixtures are leviable to GST at 18% as discussed in para-38 above i.e. all of them attract equal rate of tax. Hence the said 'Mixed supply' of goods can be considered to be the supply of any of the three supplies i.e. Frontal frames (Tariff heading 73269080) OR Fascia pads (Tariff heading 39201099) OR Fixtures (Tariff heading-73181500/73181600/73182200) and the GST leviability on the said supply will be 18%(9% SGST + 9% CGST).

49. Now, we are required to discuss the third question of the applicant seeking Advance Ruling which reads as under:

Question-3(Part C) – Whether supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.1/2017 dated June 28, 2017 (as amended)?

50. The applicant has submitted his view point for the aforementioned supply being a composite supply as under:

(a) The applicant requires to supply fender panel system along with services such as assembly, installation & supervision as per the requirements of the customer for which the price /consideration for fender panel system and services would be separate and individual invoices would be issued for supply of goods and supply of service.

(b) The present supply would not qualify as 'works contract' service by referring to the definition of work contract under Section 2(119) stating one of the essential conditions to qualify as works contract supply is that the fabrication, erection, fitting out, modification, alteration work is carried out for an immovable property.

(c) Immoveable property would mean anything that is permanently fastened to the earth. Considering this, the resultant structure arising in the present case is not an immoveable property for the reasons that: (i) the fenders panel system can be easily shifted at another location without any complex dismantling process (ii) the fender panel system is dismantled on a periodical basis as these would suffer wear and tear after a certain period and therefore, are not permanently fixed to earth of jetty, hence not immoveable property as per the permanence theory.

- (d) The applicant has relied upon the judgements of the Hon'ble Supreme Court in the case of *Municipal Corporation of Greater Bombay Vs. Indian Oil Corporation Ltd.* [AIR 1991 SC 686 = 1991 Supp (2) SCC 18] and in the case of *Triveni Engineering & Industries Ltd Vs. Commissioner of Central Excise* [(2000) 120 ELT 273 (SC)] to support their contention as in (c) above.
- (e) All conditions for composite supply is also fulfilled in present case such as: (i) supply consists of two or more taxable supply of goods or services made by a taxable person(ii) various components of such supply are naturally bundled and in conjunction with each other. (iii) One of the supplies i.e. the Fender Panel System is the principal supply.
- (f) Therefore, the Applicant believes that the present case would qualify to be composite supply wherein the supply of fender panel system is the principal supply which provides essential character to the entire bundle of supply of goods as well as installation service by the Applicant. Therefore, the Applicant believes that the supply of fender panel system would merit classification under Heading 7308 90 and would be liable to GST of 18% as per the CGST Notification No. 01/2017 – Central Tax (Rate).

51. In the above issue, we find that the applicant has not given copies of any work order/contract or any similar document. We find that the applicant has mentioned in his submission that the present supply would not qualify as 'works contract' service by referring to the definition of work contract under Section 2(119) stating one of the essential conditions to qualify as works contract supply is that the fabrication, erection, fitting out, modification, alteration work is carried out for an immovable property. He has also stated that the resultant structure arising in the present case is not an immovable property for the reasons that: (i) the fenders panel system can be easily shifted at another location without any complex dismantling process (ii) the fender panel system is dismantled on a periodical basis as these would suffer wear and tear after a certain period and therefore, are not permanently fixed to earth of jetty, hence not immovable property as per the permanence theory. However, in the event of non-submission of copy of any work order/contract etc. it would not be possible for us to decide whether the present supply is 'Work Contract' or otherwise. We, therefore, have no option but to rely on the submission of the applicant and available records to decide the type of supply.

52. In order to find out whether the aforementioned supply i.e. Fender Panel System (along with services such as assembly, installation & supervision) is a composite supply or otherwise, we will be required to refer to the definition of 'Composite Supply' as appearing in Section 2(30) of the CGST Act, 2017. But, before proceeding further, we would like to reiterate here that although the applicant has considered the supply of the fender panel system as a single supply of goods (as per his above question seeking Advance Ruling), the fact is that this supply consists of 3 different supply of goods i.e. frontal frames, fascia pads and fixtures, which, do not form a single supply or a composite supply since they are not naturally bundled or supplied in conjunction with each other in the ordinary course of business as discussed in the foregoing paras.

Section 2(30) of the CGST Act, 2017 reads as under:

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Further, definition of principal supply as per Section 2(90) of the CGST Act, 2017 reads as under:

“(90) “principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;”

53. From the above, it can be seen that for being a composite supply, all the following conditions are required to be necessarily satisfied:

- (i) The said supply should be made by a taxable person to a recipient.
- (ii) It should consist of two or more taxable supplies of goods or services or both or any combination thereof.
- (iii) They should be naturally bundled and supplied in conjunction with each other in the ordinary course of business.
- (iv) One of the supplies must be a principal supply.

Comparing the above conditions to the issue in hand, we find as under:

- (i) The said supply is made by a taxable person i.e. the applicant, hence the first condition is satisfied.
- (ii) The Fender Panel System as referred to by the applicant itself consists of supply of three different taxable supply of goods i.e. frontal frames, fascia pads and fixtures and is accompanied by taxable supply of services such as assembly, installation and supervision. It therefore consists of two or more taxable supplies of goods or services or a combination of both. Hence this condition is also satisfied.
- (iii) The supply of goods i.e. frontal frames, fascia pads and fixtures are not naturally bundled nor supplied in conjunction with each other in the ordinary course of business as discussed in the foregoing paras. Similarly, the supply of the aforementioned goods need not necessarily be supplied alongwith services such as assembly, installation and supervision as these services need not be obtained by the recipient from the applicant but can be obtained from some other supplier also. We, therefore, find that the supply of goods mentioned above and the aforementioned supply of services are not naturally bundled nor supplied in conjunction with each other in the ordinary course of business. Hence this condition is not satisfied.
- (iv) None of the aforementioned supply of goods, nor the supply of services which the applicant wants to supply alongwith the supply of goods, individually, forms the principal supply. Hence this condition is also not satisfied.

In view of the above, since all the above conditions have not been satisfied, we conclude that the aforementioned supply of goods and services does not constitute a ‘composite supply’

54. Having concluded that the aforementioned supply of goods and services is not a composite supply, the next thing required to be checked is whether it gets covered under the definition of ‘mixed supply’ of services or otherwise. For the said purpose, we need to refer to the definition of ‘mixed supply’ as defined in Section 2(74) of the CGST Act, 2017 which reads as under:

“(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;”

55. From the above, it can be seen that for being a mixed supply, all the following conditions are required to be necessarily satisfied:

- (i) The said supply should be made by a taxable person to a recipient.
- (ii) It should consist of two or more individual supplies of goods or services or any combination thereof.
- (iii) It should not constitute a composite supply.
- (iv) They should be made in conjunction with each other for a single price.

56. Comparing the above conditions to the issue in hand, we find as under:

- (i) The said supply is made by a taxable person i.e. the applicant, hence, the first condition is satisfied.
- (ii) The Fender Panel System as referred to by the applicant itself consists of supply of three different taxable supply of goods i.e. frontal frames, fascia pads and fixtures and is accompanied by taxable supply of services such as assembly, installation and supervision. It therefore consists of two or more individual supplies of goods or services or a combination of both. Hence, this condition is also satisfied.
- (iii) The said supply does not constitute a ‘composite supply’. Hence, this condition is also satisfied.
- (iv) The supply of goods i.e. frontal frames, fascia pads and fixtures as well as the supply of services are not supplied in conjunction with each other for a single price, as the applicant themselves have stated that the price/consideration for fender panel system and services would be separate, and individual invoices would be issued for supply of goods and supply of service. Hence, this condition is not satisfied.

57. In view of the above, since all the above conditions have not been satisfied, we conclude that the aforementioned supply of goods and services does not constitute a ‘mixed supply’. Now, since it has been established that the aforementioned supply is neither a ‘composite supply’ nor a ‘mixed supply’, we conclude that the applicant will have to supply the aforementioned goods as well as services separately and not as a combination. In view of the above, we conclude that the supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would not qualify as a composite supply or a mixed supply. Hence, there is no question of either determining the classification of this bundle or deciding it’s applicable tax rate.

58. Now, we are required to discuss the fourth question of the applicant seeking Advance Ruling which reads as under:

“Question-4(Part D) – Whether supply of installation service where usage of chemical is essential to provide effective service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax thereon in accordance with Notification No.11/2017 dated June 28, 2017 (as amended)?”

59. The applicant has submitted his view point for the aforementioned supply being a composite supply as under:

- (a) The Applicant, as per the requirements of the customer, enters into a contract to provide installation services for marine fendering systems or fender panel system wherein the customer also specifies the chemical of particular brand to be used for installation services.

- (b) The value of chemical is not separately mentioned in contract or sale invoice and the customer simply states usage of chemical of particular brand for providing effective service and the chemical is consumed during the course of providing installation service. Copy of work order issued by customer and invoices are submitted.
- (c) Applicant believes that the present case qualifies to be a composite supply wherein the installation service is the principal supply and usage and supply of chemical during the course of providing such service is an ancillary supply.
- (d) The applicant has drawn reference to Circular No.34/8/2018-GST dated March 1, 2018 wherein it has been clarified that the rubber used during the course of retreading of tyres is an ancillary supply and retreading would form the pre-dominant element of supply. Similarly, in Circular No. 11/11/2017-GST dated October 20, 2017, it has been clarified that in the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services
- (e) The applicant has referred to the case of *G.E. Diesel Locomotive (P) Ltd* wherein it was held by Uttar Pradesh AAR that since the supply of maintenance service is for a one and fixed price with or without supply of spare parts/goods and supply of service and goods is made in conjunction with each other in the ordinary course as per maintenance contracts, this maintenance service is naturally bundled with the incidental supply of goods and is a case of composite supply of service"
- (f) The applicant has also referred to the judgement of Gujarat AAR in the case of *Khedut Hat [2018-TIOL-173-AAR-GST]*, wherein it was held that *in the said case applicant uses explosives in the blasting activity at their client's site for the client, thus, there is deemed supply of explosives in this case in view of the judgement of Hon'ble Supreme Court in the case of Bharat Pest Control (supra) as well as the supply of service in the form of the blasting work and is therefore a composite supply of goods and services covered by Section 2(30) and Section 8(a) of the CGST Act, 2017."*
- (g) Considering the above advance rulings and circulars, the Applicant wishes to submit that in cases where materials are consumed during provision of a service, such cases would qualify to be composite supply of goods as well as service wherein the supply of service would be the principal supply.
- (h) In the present case, the present supply would qualify under SAC 9987 – 'Installation services of other goods n.e.c.' leviable to GST @ 18%.

60. We have gone through the submission of the applicant as also the copy of work order dated 18.07.2019 issued by the Krishnapatnam Port Company Ltd. to the applicant, which reads as under:

Installation of SCN 1600 Cone Fender System:

Stage-1: Removal of the existing fender system from the wharf wall.

Stage-2: Coring on Wharf wall with the use of Template.

Stage-3: Mobilizing Hilti RE – 500 Resin Chemical, Chemical Anchoring & Installation of EC2 Anchors.

Stage-4: Assembly of Rubber Fender and Frontal Panels, installation of complete system, alignment & tightening of chains.

On going through the above work order, we find that it involves installation of Fender Panel System alongwith supply of Chemicals which appears to be used for Chemical anchoring i.e. fastening to concrete (wharf wall in this case). Now, in order to find out whether the aforementioned supply i.e. wherein the customer supplies installation services for marine fendering systems or fender panel system along with supply of the chemical of particular brand (to be used for installation services) is a composite supply or otherwise, we will be required to refer to the definition of 'Composite Supply' as appearing in Section 2(30) of the CGST Act, 2017. Section 2(30) of the CGST Act, 2017 reads as under:

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Further, definition of principal supply as per Section 2(90) of the CGST Act, 2017 reads as under:

"(90) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;"

61. From the above, it can be seen that for being a composite supply, all the following conditions are required to be necessarily satisfied:

- (i) The said supply should be made by a taxable person to a recipient.
- (ii) It should consist of two or more taxable supplies of goods or services or both or any combination thereof.
- (iii) They should be naturally bundled and supplied in conjunction with each other in the ordinary course of business.
- (iv) One of the supplies must be a principal supply.

Comparing the above conditions to the issue in hand, we find as under:

- (i) The said supply is made by a taxable person i.e. the applicant, hence the first condition is satisfied.
- (ii) The aforementioned supply consists of Installation services along with supply of chemicals which will be used up during the course of supply of service. It therefore consists of two or more taxable supplies of goods or services or combination of both. Hence this condition is also satisfied.
- (iii) The supply of services i.e. Installation services along with supply of goods i.e. chemicals which will be used up during the course of supply of service are naturally bundled and supplied in conjunction with each other in the ordinary course of business as in the present supply, installation services is supplied with the help of the Chemical (which helps in effective service of installation as submitted by the applicant) which is used up during the course of supply of Installation services. Hence this condition is also satisfied.
- (iv) Out of the aforementioned supply, the supply of installation service forms the principal supply and the supply of goods i.e. chemicals, forms the ancillary supply. Hence this condition is also satisfied.

62. In view of the above, since all the above conditions have been satisfied, it appears that the aforementioned supply of services and goods i.e. chemicals, constitutes a 'Composite supply'. Further, we would also like to refer to the

following circular (which has also been referred to by the applicant) i.e. in Circular No.11/11/2017-GST dated October 20, 2017, it has been clarified that in the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services. We find that the instance mentioned in the above circular is squarely applicable to the issue in hand. We therefore, conclude, that the aforementioned supply of Installation services along with supply of chemicals constitutes 'Composite supply' wherein the 'Installation service' is the principal supply and the supply of 'chemicals' is the ancillary supply.

63. Having established that the aforementioned supply is a 'Composite supply', we are now required to find out the classification of the same and the rate of GST applicable on the same for which, we will be required to refer to Section 8 of the CGST Act, 2017 which reads as under:

"8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax."

64. On going through the above provisions and comparing the same to the issue in hand, we find that since the aforementioned supply is a 'Composite supply' in which the 'Installation Service' is the principal supply, the said supply will be treated as a supply of 'Installation Service' in terms of clause(a) of Section 8 above, and therefore, the GST liability will be the tax leviable on 'Installation Service'. In order to find the GST liability on 'Installation Service' we will be required to refer to the Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time) which covers the classification of services as well as rate of GST liability on them. On going through the same, we find that 'Installation Service' appears at Sr.No.25 (ii) of the said notification on which GST liability is 18%(9% SGST + 9% CGST). The same reads as under:

Sr.No.	Chapter, Section or Heading	Description of service.	Rate (per cent)	Condition
25	9987	(i) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017	2.5	---
		“(ia) Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.	2.5	---
		(ii) Maintenance, repair and installation (except construction) services, other than (i) and (ia) above [and serial number 38 below]	9	---

Further, as per Annexure to the Notification No.11/2017-Central tax(Rate) dated 28.06.2017, 'Installation service' appears at Entry No.497 wherein the Service Code(Tariff) is 998739 which reads as under:

Sr.No.	Chapter, Section, Heading or Group	Service Code(Tariff)	Service Description
490.	Group 99873		Installation services (other than construction)
491.		998731	Installation services of fabricated metal products, except machinery and equipment.
492.		998732	Installation services of industrial, manufacturing and service industry machinery and equipment.
493.		998733	Installation services of office and accounting machinery and computers.
494.		998734	Installation services of radio, television and communications equipment and apparatus.
495.		998735	Installation services of professional medical machinery and equipment, and precision and optical instruments.
496.		998736	Installation services of electrical machinery and apparatus nowhere else classified.
497.		998739	Installation services of other goods nowhere else classified.

In view of the above, we conclude that the aforementioned 'Composite supply' will be classified as 'Installation Services (other than Construction)' (Service Code-998739) and the GST liability will be 18%(9% SGST + 9% CGST).

65. Further, we also observe that the applicant has cited a few judgements of Advance Ruling Authorities to support their contention. In this context, we have to emphasise here that decisions of Advance Ruling Authorities cannot be relied upon by the applicant, since, as per the provisions of Section 103 of the CGST Act, 2017, the Advance Ruling pronounced by the Advance Ruling Authority or the Appellate Authority shall be binding only on the applicant who had sought it in respect of any matter referred to in sub-section(2) of Section 97 for Advance Ruling and the concerned officer or the jurisdictional officer in respect of the applicant.

66. In view of the above circumstances, we rule as under :

RULING

Question-1(Part-A) –What would be the classification of the following products under GST and applicable tax rate thereon in accordance with Notification No. 01/2017 dated June 28, 2017 (as amended).

Sr. No.	Products
1	Bollards
2	Bolts, nuts, screw, washer etc. known as fixtures
3	Frontal Frames
4	Fascia Pads – UHMW PE pads
5	Buoys
6	Chains/ Swivel/ D-Shackle/Chain tensioner
7	Rubber Fender (both types)

Answer: The classification of the following products under GST and applicable tax rate thereon in accordance with Notification No.01/2017 dated 28.06.2017 (as amended from time to time) is as under:

Sr.No.	Name of the product	Sub-heading/ Classification as per the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)	Rate of tax(GST)
01.	Bollards	73259999	18%(9% SGST + 9% CGST)
02.	Bolts (fixtures)	73181500	18%(9% SGST + 9% CGST)
03.	Nuts (fixtures)	73181600	18%(9% SGST + 9% CGST)
04.	Screw (fixtures)	73181500	18%(9% SGST + 9% CGST)
05.	Washer (fixtures)	73182200	18%(9% SGST + 9% CGST)
06.	Frontal Frames	73269080	18%(9% SGST + 9% CGST)
07.	Fascia Pads – UHMW PE pads	39201099	18%(9% SGST + 9% CGST)
08.	Buoys	89079000	5%(2.5% SGST + 2.5% CGST)
09.	Chains	73158900	18%(9% SGST + 9% CGST)
10.	Swivel/D-Shackle/ Chain tensioner	73159000	18%(9% SGST + 9% CGST)
11.	Rubber Fender (both types)	40169400	(i)28%(14%SGST + 14%CGST) upto 14.11.2017. (ii)18%(9%SGST + 9%CGST) from 15.11.2017 onwards.

Question-2(Part-B): Whether supply of few products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.01/2017 dated June 28, 2017 (as amended)?

Answer: Supply of products such as frontal frames with fascia pads along with fixture as a complete set, would qualify as a mixed supply for the reasons discussed hereinabove. The said 'mixed supply' can be classified as supply of any of the three supplies i.e. Frontal frames (Tariff heading 73269080) OR Fascia pads (Tariff heading 39201099) OR Fixtures (Tariff heading-73181500/73181600/73182200), for the reasons discussed hereinabove and the GST applicable thereon will be 18%(9% SGST + 9% CGST).

Question-3(Part-C): Whether supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No.1/2017 dated June 28, 2017 (as amended)?

Answer: Supply of goods i.e. fender panel system along with services such as assembly, installation & supervision service would not qualify as a composite supply or a mixed supply for the reasons discussed hereinabove. Accordingly, the second part of the question becomes 'not applicable',

Question-4(Part-D): Whether supply of installation service where usage of chemical is essential to provide effective service would qualify as composite supply or not? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax thereon in accordance with Notification No.11/2017 dated June 28, 2017 (as amended)?

Answer: Supply of installation service where usage of chemical is essential to provide effective service, qualifies as 'Composite supply' for the reasons discussed hereinabove. The said 'Composite supply' will be classified as 'Installation Services (other than Construction)(Service Code-998739) and the GST applicable thereon will be 18%(9% SGST + 9% CGST).

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 27.01.2021.