



**CUSTOMS AUTHORITY FOR ADVANCE RULINGS
 O/o THE CHIEF COMMISSIONER OF CUSTOMS
 NEW CUSTOM HOUSE, NEAR IGI AIRPORT, NEW DELHI-110037
 [Email: cus-advrulings.del@gov.in]**

Present

Samar Nanda (Customs Authority for Advance Rulings, New Delhi)

F. No. VIII/CAAR/Delhi/ Shriprop Aerospace/02/2024

The day of 26th March, 2024 — 743 to 747
 27/3/2024

Ruling No. CAAR/Del/Shriprop Aerospace/07/2024

Name and address of the applicant:	M/s Shriprop Aerospace Private Limited Plot No-E-29, UPSIDC Rooma, Kanpur Nagar, Kanpur, Uttar Pradesh, 208008
Commissioner concerned:	Principal Commissioner of Customs, ACC (Import), New Customs House, New Delhi – 110 037
Present for the applicant:	Sh. Harshit Kumar Nahar, C.A
Present for the Department:	None



Ruling

M/s. Shriprop Aerospace Private Limited (hereinafter referred to as 'SAPL' or 'the Company' or 'the applicant'), having IEC No. AAUCS9987P has filed an application (CAAR-1) for advance ruling before the Customs Authority for Advance Rulings, New Delhi (CAAR, in short). The said application was received in the Secretariat of CAAR, New Delhi on 18.01.2024 along with enclosures in terms of Section 28H (1) of the Customs Act, 1962 (hereinafter referred to as the 'Act'). The applicant has stated that import of certain parts of the aircraft's engine is the proposed activity and an advance ruling has been sought on applicability of serial number 545 of Notification No. 50/2017-Customs dated 30.06.2017.

2. The applicant has inter-alia stated that, they are a technical support service provider for defence projects and currently serves overseas clients in the area of an IT system based Business Process Management (BPM) for aircraft engines parts from Bengaluru and Maintenance, Repair & Overhaul ('MRO') services for aircraft engines from Kanpur; Indian Air Force ('IAF') through Ministry of Defence ('MoD') has provided a consent letter to the OEM that the applicant is eligible for provision of MRO services; they are authorized to conduct Maintenance, Repair & Overhaul (MRO) for SAE's M53 and M88 turbojet engines used for the Military Aircraft of the IAF; for provision of MRO services towards the aircraft's engine, the applicant ought to import certain parts of the engine from the OEM; the OEM supplies such parts to the applicant with a condition that they are not authorized to use these parts for any purpose other than Mirage Aircraft of the IAF or re-export them to any other country; further, the OEM also confirms that these parts are for use in an aircraft and the end user for these parts is Indian Air Force. The applicant has also stated that since these parts are used by Indian Defence, thus, in terms of Non-Disclosure Policy, they would not be able to share the specific designs and functionalities of each of the part except with written permission from the OEM and IAF; the subject parts are specifically designed for turbojet engines of military aircraft used by IAF and cannot be used in any other aircraft engines or for any other function other than the specific aircraft turbojet engines; the subject parts can be used specifically in turbo-jet engines of military aircraft, hence, are classified as "Parts of Turbo-Jet Engine" under Sub-heading 84119100 of the Customs Tariff; however, there is an ambiguity in the applicability of exemption notification No.50/2017-Customs dated 30-Jun-2017 (Sl. 545) i.e whether the same is applicable only for "Parts, of Aircraft" or also to "Parts of Parts".

3. The applicant has further stated that, the subject goods imported are not 'parts of general use' but are parts with specific use; these parts are specifically designed, solely and principally to be used in turbo-jet engines which are particularly used in Mirage fighter aircraft used by the IAF; the End Use Certificate confirms the same; the subject goods from operational perspective are intended to be used for MRO activity as "Parts of Turbo Jet Engines" where engines are used in aircraft used by IAF falling under 8802 and parts are classifiable under Sub-heading 84119100; the standard rate of Basic Customs duty (BCD) for goods classified under 84119100 is 7.5%; however, it is believed that they are ought to be eligible for exemption in terms of serial number 545 of Notification No. 50/2017-Customs dated 30-Jun-2017 (as amended from time to time), by virtue of which the effective rate of BCD ought to be 2.5%; the said entry as applicable to parts (other than Rubber tyres and Tubes), of aircraft of heading 8802 or 8806 (except unmanned Aircraft used as Television camera, digital camera or video camera recorder), falling under any chapter; on a plain reading of the notification, the exemption is extended to "All Parts of an Aircraft (other than rubber tyres and tubes)" classifiable under "Any Chapter"; on the basis of well settled position of law, the applicant believes that "Parts of Parts" ought to be deemed to be part of the machine; hence, in the instant case, engine being "part of



aircraft" and subject goods being "parts of engine" ought to be considered as part of the aircraft and ought to be eligible for exemption.

4. The applicant has placed reliance on a number of cases, namely:

(i) In the case of CCE, Nagpur v. Hyundai Unitech Electrical Transmission Ltd., wherein the Hon'ble Supreme Court, while allowing the benefit of Notification No. 6/2002-CE, to doors of tower which were used as part of Windmill (parts of parts of Windmill), held that, "It is not in dispute that as far as windmill doors or tower doors are concerned, it is a safety device which is used as security for high voltage equipment fitted inside the tower, preventing unauthorized access and preventing entries of reptiles, insects, etc., inside the tower. This, according to us, would be sufficient to make it part of the electricity generator. Further, since the tower is held as part of the generator, door thereof has to be necessarily a part of the generator. We, therefore, are of the opinion that there is no case of interference made out by the department, benefit of Notification No.6/2002-CE available".

(ii) In the case of Collector of Central Excise v. Mahendra Engg. Works, the Hon'ble CESTAT Delhi, allowing the benefit of exemption to Stampings and laminations used in electric motors or in rotors or stators which in turn is used as component parts in manufacture of power driven pumps, considered that parts of parts of power driven pump ought to be regarded as parts of power driven pump only and held that, there is no dispute about the fact that these were used in the electric motors or in rotors or stators and in turn that was used as component part in the manufacture of power driven pumps.

(iii) In the case of Audio Vision Electronics v. Collector of Customs, Madras, the Hon'ble Tribunal Delhi, while allowing import of component of Tape Recorders and TV sets under Open General License, considered that component of component is also a component of the machine.

(iv) In the case of Collector of C.Ex vs. MP (I) Ltd., the Hon'ble Tribunal Delhi, while allowing the exemption, held that, "A part of a cycle tyre is also a part of a bicycle; in our opinion that is the more reasonable view."

(v) In the case of Nalanda Pen Mfg. Co. Pvt Ltd. v. Collector of C. Ex. Baroda, separately and independently the Tribunal has held that where the notification exempts the components, parts of the components or sub-parts of that part would also benefit from the notification.

(vi) In the case of Tata Engineering & Locomotive Co. Ltd. v. Collector of Central Excise, Pune, the Hon'ble Tribunal Delhi, held that, "In the Bajaj Auto Limited [1994 (74) E.L.T. 599 (Tribunal)], it was clearly held that since the parts were used in the manufacture of I.C. Engines which were in turn used in the manufacture of motor vehicles - parts are to be considered as parts of motor vehicles.

(vii) In the case of Collector of C. Ex., Bombay v. Perfect Valves & Machine Tools Corpn., the Hon'ble Tribunal Delhi, held that, "as it has been admitted by the Revenue that the nuts were components for the valves for cycle tubes, they could be considered as parts of cycle. In the facts and circumstances of this case, as part of the parts, they should be considered as parts of cycle".

(viii) In the case of Pushpam Forging v. Commissioner of Central Excise, Raigad, the Hon'ble Tribunal, Mumbai, held that, "The admitted position is M.S. Flanges are parts of Wind Mill Tower, which in turn is part of a WOEI [Wind Operational Electric Generator] following Tribunals decision in case of C.C.E. v. Techno Fab Manufacturing Ltd. - 2003 (158) E.L.T. 515 has held tower to be a



part of the Wind Mill. Once tower is accepted and found and held to be part of WOEg, it is to be held that part i.e. flange of this part i.e. tower will be part of the whole i.e. Wind Generated Mill producing electricity from unconventional services. Every devices/systems part in this case having been specifically designed for that purpose in mind. That part of part is part of whole is well settled, relying upon [CCE v. Mahendra Engineering Works – 1993 (67) E.L.T. 134 followed in Bensel Industrial Corporation - 2000 (118) E.L.T. 119]. We find the ‘flanges’ to be a part of WOEg”.

(ix) In the case of Collector of C. Ex., Calcutta v. Jay Engineering Works Ltd., the Hon’ble Tribunal Delhi, held that, “Electrical Stampings and Laminations used in the manufacture of electric motors, which in turn are used in the manufacture of power-driven submersible pumps, are eligible for the benefit of Notification No. 64/86-C.E., dated 10-2-1986. Parts of parts have been considered as to be eligible to the benefit of notification.

(x) In the case of Shriram Bearings Ltd. v. Commissioner of C. Ex., Jamshedpur, the Hon’ble Tribunal, Kolkata, held that, “We find that the said exemption has been denied by the adjudicating authority by observing that the Tribunal’s decision in the case of Mahendra Engineering Works is not applicable inasmuch as the product before the Tribunal in that case was stampings and laminations, whereas in the instant case, the benefit is being sought in respect of parts of Ball Bearings. We find that this differentiation done by the adjudicating authority is not intelligent, in as much as the ratio of the Mahendra Engineering Work’ case is squarely applicable to the instant case. The said decision only holds to the effect that the parts of parts would also get covered by the Notification No. 64/86.

(xi) In the case of Hemraj Gordhandas Vs. H. H. Dave, Assistant Collector of C. Ex. & Customs, the Hon’ble Supreme Court, held that, “it is well established that in a taxing statute there is no room for any intendment but regard must be had to the clear meaning of the words. The entire matter is governed wholly by the language of the notification. If the taxpayer is within the plain terms of the exemption, it cannot be denied its benefit by calling in aid any supposed intention of the exempting authority. If such intention can be gathered from the construction of the words of the notification or by necessary implication therefrom, the matter is different.”

5. The applicant has further stated that the Advance Ruling Authority in the case of Inter Globe Aviation Ltd., while extending the benefit of exemption notification to “All Parts of Aircraft (except Rubber tyres and Tubes) falling under various chapters”, held that, it is settled position of law that exemption notification is to be read strictly and interpreted in terms of its language - when language is plain and clear, effect must be given to it. Plain reading of the notification show that all parts (other than rubber tubes) of aircraft of Heading 8802 are exempt from Customs duty including seats of aircraft. As per S. No. 454 of subject notification, parts of aircraft of Heading 8802 falling under any Chapter of Customs Tariff are exempt from duty. Tariff item 8802 contains “Other aircrafts (For example, Helicopters, Aero planes), Spacecrafts (including Satellites) and suborbital and Spacecrafts Launch Vehicles. Applicant proposes to import seats of aircrafts, which is part of aircraft. Aircraft falls under Tariff item 8802 and its seats, which is also part of aircraft. It is to be noted that if the intention of the Govt. was not to extend benefit of said notification to seats of aircraft, it would have mentioned so in the notification, along with rubber tubes, to which this benefit is not extended. To our mind, the approach of Revenue to apply General Rules for Interpretation for Import Tariff, even for interpretation of notification in this case, is legally incorrect”.

6. A personal hearing in the matter was conducted on 06.03.2024. During the personal hearing, the authorized representative of the applicant briefly explained the functioning of the company and



submitted that the company is engaged in the business of maintenance, repair and overhaul services of Miraj aircraft engine. He further submitted that the company had already made an import of a consignment of spare parts of the aircraft to be used in maintenance/repair of Miraj aircraft; now, more consignments of the subject parts have to be imported, so the company has filed the instant application before CAAR, New Delhi, seeking a ruling in the matter. He also reiterated the submissions, already on record.

7. I note that comments on the application for advance rulings have been received from the concerned Commissionerate wherein it is inter-alia stated that the importer is eligible for the benefit of concessional rate of BCD @ 2.5% as per serial number 545 of Notification No. 050/2017-Customs dated 30.06.2017.

8. From the submissions of the application I note that, the OEM supplies such parts to the applicant with a condition that they are not authorized to use these parts for any other purpose other than Mirage Aircraft of the IAF or re-export them to any other country; since these parts are used by Indian Defence, the applicant in terms of Non-Disclosure Policy would not be able to share the specific designs and functionalities of each of the part except with written permission from the OEM and IAF; the subject parts are specifically designed for turbojet engines of Military aircraft used by IAF and cannot be used in any other aircraft engines or for any other function other than the specific aircraft turbojet engines; the subject goods imported are not 'parts of general use' but these are parts with specific use; these parts are specifically designed, solely and principally to be used in turbo-jet engines which are particularly used in Mirage fighter aircraft used by the IAF; the subject parts can be used specifically in turbo-jet engines of military aircraft.

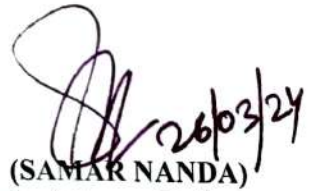
9. I have taken into consideration all the materials placed on record in respect of the subject goods including the submissions made by the applicant during the course of personal hearing. I have gone through the comments of the concerned Commissionerate. I, therefore proceed to decide the present application, seeking ruling on applicability of the exemption notification, on the basis of information available.

10. I find on a plain reading of the notification, the exemption is extended to "All Parts of an Aircraft (other than Rubber tyres and tubes)" classifiable under "**Any Chapter**". Further, on the basis of the well settled position of law, the applicant believes that the subject goods ought to be deemed to be part of the machine; hence, in the instant case, engine being "part of aircraft" and subject goods being "parts of engine" ought to be considered as part of the aircraft and ought to be eligible for exemption unless specifically restricted. Further, the exemption notification is to be read strictly and interpreted in terms of its language; when language is plain and clear, effect must be given to it; plain reading of the notification shows that all parts (other than rubber tyres and tubes) of aircraft of Heading 8802 or 8806 are eligible for exemption over and above 2.5% of BCD; it appears that the legislative authorities were conscious of the fact that the goods they are listing for exemption fell under different Headings or Chapters of the Customs Tariff and by not writing the Chapter heading into the notification, the exemption become possible for all kinds of parts of aircraft. Moreover under column (2) of the table against serial number 545, it is clearly stated that exemption is extended to goods mentioned in column number (3), falling under 'Any Chapter'; per the above, parts of engine, which in turn are parts of aircraft, ought to be eligible for exemption under serial number 545 of Notification No. 50/2017-Cus dated 30-Jun-2017, which is also affirmed by the concerned Commissionerate. Though the applicant has mentioned that these parts are specifically designed, solely and principally to be used in turbo-jet engines which are particularly used in Mirage fighter



aircraft used by the IAF and hence, are classified as "Parts of Turbo-Jet Engine" under 8411 9100. However, I do not intend to get into merits of classification of different parts which the applicant intend to import as the question posed before me vide the said application for advance ruling relates only to admissibility of serial number 545 of Notification No. 50/2017-Customs dated 30.06.2017. Thus, without diverting, I intend to give ruling on the admissibility of the said notification. More so, classification of different parts in different headings may not be that important from the point of admissibility of the said notification as serial number 545 of Notification No. 50/2017-Customs dated 30.06.2017 allows partial exemption from duties to parts of aircraft classifiable under any chapter of the Customs Tariff. The moot point is to examine that parts under consideration must be goods which are specifically designed and cut to shape and size, to be specifically used as parts of the aircraft and such goods should not be parts which are excluded under the said serial number, for getting exemption under the said serial number of the notification. Noting that there is a specific declaration given by the applicant regarding sole and principal use of the specifically designed parts, in turbo-jet engines of the aircraft and also in light of the catena of judgements by a number of Hon'ble Tribunals and Courts that part of part is part of the whole, it leaves no doubt on admissibility of the said serial number of the notification. Thus, exemption under serial number 545 of Notification No. 50/2017-Customs dated 30.06.2017 is admissible to parts of turbo-jet engines which are particularly used in fighter aircraft.

11. I rule accordingly.


(SAMAR NANDA)

Customs Authority for Advance Rulings
New Delhi



This copy is certified to be a true copy of the ruling and is sent to: -

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2. The Principal Commissioner of Customs, ACC (Import), New Customs House, New Delhi – 110 037
3. The Customs Authority for Advance Rulings, Mumbai, New Custom House, Ballard Estate, Mumbai-400001
4. The Chief Commissioner (AR), Customs Excise & Service Tax Appellate Tribunal (CESTAT), West Block-2, Wing-2, R.K. Puram, New Delhi-110066
5. The Chief Commissioner of Customs, Delhi Customs Zone, New Custom House, IGI Airport Complex, New Delhi-110037
- ~~6.~~ Guard file
7. Webmaster.

A.K. Sapra

(A.K. Sapra)

Joint Commissioner,
Customs Authority for Advance Rulings, New Delhi

