

THE MAHARASHTRA APPELLATE AUTHORITY FOR ADVANCE RULING FOR GOODS AND SERVICES TAX

(Constituted under Section 99 of the Maharashtra Goods and Services Tax Act, 2017)

ORDER NO. MAH/AAAR/SS-RJ/20/2018-19

Date- 14.02.2019

BEFORE THE BENCH OF

(1) Smt. Sungita Sharma, MEMBER

(2) Shri RajivJalota, MEMBER

| | |
|-------------------------|---|
| GSTIN Number | 27AAMCA4160E1ZT |
| Legal Name of Appellant | A S MOLOOBHOY PRIVATE LIMITED |
| Registered Address | MBPT Plot-58, Anchor House, 1st Magazine Cross Street, Darukhana, Mumbai - 400010, Maharashtra. |
| Details of appeal | Appeal No. MAH/GST-AAAR-20/2018-19 dated 16.11.2018 against Advance Ruling No. GST-ARA-14/2017-18/B-71 dated 18.07.2018 |
| Jurisdictional Officer | Dy. Commissioner of SGST, MUM-VAT-E-827, Nodal -4, Mumbai- 400 010. |

PROCEEDINGS

(Under Section 101 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the MGST Act.

The present appeal has been filed under Section 100 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by A S MOLOOBHOY PRIVATE LIMITED (hereinafter referred to as the "Appellant") against the Advance Ruling No. GST-ARA-14/2017-18/B-71 dated 18.07.2018.

BRIEF FACTS OF THE CASE

- A. The Appellant, having Goods and Service Tax ('GST') Registration No. 27AAMCA4160E1ZT is inter alia engaged in the business of sale and distribution of Marine Distress Signals, EPIRB and SART, SSAS, Marine Chemicals, Navigation and Communication (NAVCOM) Equipment and also providing Life Saving equipment such as Life raft, Lifeboat and Fire-fighting services, including Pyrotechnic Disposal, Electronic Services and Training Services related to the Marine Industry.
- B. Appellant imports various goods/spares, which are supplied on ships and these equipment form an essential part of the ship, and ***makes the ship "sea worthy."***
- C. Appellant was levying GST on most of the parts/equipment supplied by it at the rate of 18%. Appellant was receiving purchase orders for such parts/spares/equipment from reputed customers wherein orders were placed on specific terms that applicable GST rate on items ordered was 5% as all such parts and equipment, ordered, are forming part of ship. The customers strongly contended that the relevant tax entry for taxing such goods is Sr.No.252 of Notification No.1/2017 Central Tax which specifically covers Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907. Charging tax at higher rate of 18% was making appellant non-competitive in the market.
- D. Based on the information from customers and market trend, appellant also felt that **GST rate should be 5% on the goods supplied by them as same are essential part of ship** which makes the ship **seaworthy** as it is legally obligatory for ships to have fitment/installation of all such spares and equipment to qualify as seaworthy. Such parts/equipment should be classified under the tariff heading of "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907."
- Heading 8901 is for cruise ships, excursion boats, ferry boats, cargo ships, barges and similar vessels for transport of persons or goods.
 - Heading 8902 applies to fishing vessels, factory ships, other vessels, etc.
 - Heading 8904 is for tugs and pusher crafts.
 - Heading 8905 covers Light vessels, fire floats, dredgers and other vessels.

- Heading 8906 and 8907 is for other vessels and floating structures.

E. In view of the above, the appellant filed an application before the Advance Ruling Authority (Maharashtra) seeking a ruling on the question as to whether the supply of goods mentioned in para B above are classifiable as "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907" under entry 252 of Schedule 1 of CGST Notification No. 01/2017-Central Tax (Rate) dated 28th June, 2017 (Amended from time to time) and liable to GST @ 5% (CGST-2.5% and SGST- 2.5%) or IGST-5% as specified in entry 252 of schedule 1 of Notification No. 01/2017-Integrated Tax (Rate),dated 28-06-2017.

F. Advance Ruling Authority (Maharashtra) vide their order no. GST-ARA-14/2018-19/B-71 dated 18.07.2018 passed the order classifying the goods dealt with by appellant broadly into two classes:

- (i) Essential parts of the ship without which ship would not be performing essential function; **and**
- (ii) Additional equipment which cannot be considered as part of ship.

G. Advance Ruling Authority has specifically ordered that items listed in Sr. No.A, B, C, D, E, G, H, I, K, M and S of Annexure I-A of AAR Application are the essential parts of the ship without which ship would not be performing its essential function. Such items are liable to GST at the rate of 5% (2.50% CGST and 2.50% SGST or 5% IGST) under entry no. 252 of Schedule 1 of Notification no. 1/2017 – Central Tax (rate) dated 28.06.2017 (as amended from time to time).

Appellant accepted this part of order passed by Advance Ruling Authority.

H. Advance Ruling Authority was of the view that remaining items listed at Sr. No. F, J, L, N, O, P, Q, R, T, U and V of Annexure I-A are additional equipment and therefore cannot be considered as parts of ship. These items, therefore, would not qualify for tax rate of 5% (2.50% CGST and 2.50% SGST or 5% IGST) under entry no. 252 of Schedule 1 of Notification no. 1/2017 – Central Tax (rate) dated 28.06.2017 (as amended from time to time). These parts would be classified in appropriate entry as per relevant HSN code and taxed accordingly.

Being aggrieved by this part of ruling, appellant preferred an appeal against the AAR Order for modifying the order of Advance Ruling Authority in respect of following specific goods dealt with by the appellant (**herein after referred to as "specified goods"**):

| Sr. No. | Equipment | Full Form | Description |
|---------|-------------------|--|---|
| F | AIS | Automatic Identification System | Used for identifying other ships details |
| J | SAT-C/FBB | Satellite Communication / Fleet broad Band | Used for communication between ship and shore |
| L & V | NAVTEX & 2 Way RT | Navigational telex and Walkie Talkie | Used for receiving navigational weather and other warnings throughout globe and internal communication. |
| N | VDR | Voyage Data Recorder | Used for recording and analyzing data of own ship like aircraft black box |
| P | FCV | Fish Finder | Used for higher level of accuracy and clear fish shoal images |
| Q | SONAR | Sound Navigation and Ranging | Used for searching under water fishing |
| T | SART | Search and Rescue Transponder | Used in emergency to assist the coastguard in search and rescue operations if the ship is in distress |

- I. Appellant wishes to draw the attention to the following typographical mistake (mistake apparent on record) in the impugned Advance Ruling order:

- In Para no. 05 of Advance Ruling Authority (ARA) order wherein ARA has tabulated list of various parts (Table given in page no. 11 & 12 of the order) wherein the goods dealt by appellant were classified into essential parts / additional parts of ship.
- In the said table, ARA has classified Equipment listed at Sr. No. J (SAT-C/FBB – Satellite communication / Fleet Broad Band) as an essential part of ship which ultimately is to be classified under entry 252 of Schedule 1 of CGST Notification No. 01/2017-Central Tax (Rate) and liable to GST @ 5%.
- However, while pronouncing the ruling at para no. 06, ARA has ruled that goods listed only at Sr. No. A, B, C, D, E, G, H, I, K, M and S are essential parts of the ship and entitled to concessional rate of tax at 5%.

It appears that goods listed down at Sr. No. J has been erroneously omitted to be included in the above list of essential part of the ship in the ruling of ARA.

This seems to be an error (typo-error) apparent from the record and needs rectification at the earliest.

Appellant has applied to ARA for rectification of such error apparent from record.

Grounds of Appeal

On the facts of the case and in law, Advance Ruling Authority has erred in holding that following goods are not an essential parts of the ship but are an additional equipment and hence not eligible for concessional rate of tax (herein after referred to as "specified goods"):

| Sr. No. | Equipment | Full Form | Description |
|---------|-----------|---------------------------------|---|
| F | AIS | Automatic Identification System | Used for identifying other ships details |
| ** J | SAT-C/FBB | Satellite Communication / Fleet | Used for communication between ship and shore |

| | | | |
|-------|-------------------|--------------------------------------|---|
| | | broad Band | |
| L & V | NAVTEX & 2 Way RT | Navigational telex and Walkie Talkie | Used for receiving navigational weather and other warnings throughout globe and internal communication. |
| N | VDR | Voyage Data Recorder | Used for recording and analyzing data of own ship like aircraft black box |
| P | FCV | Fish Finder | Used for higher level of accuracy and clear fish shoal images |
| Q | SONAR | Sound Navigation and Ranging | Used for searching under water fishing |
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** ARA concluded that said part is an essential part of ship in their observation paragraph no. 05 of their order. However, while pronouncing final ruling, item listed in Sr. No. J has been excluded from final list of essential part of ship which are entitled to concessional rate of tax at 5%.

1. Appellant appreciates and agree to the principle laid down by the Advance Ruling Authority that parts of the ship without which the ship would not be performing its essential function is a part of the ship classifiable under entry no. 252 of Notification no. 1/2017 – Central tax (rate) dated 28.06.2017 and is entitled to concessional tax rate of 5%.
2. However, appellant humbly submits that specified goods listed in above table are also essential parts of the ship and not in nature of additional equipment as perceived by the ARA.

These parts / spares should also be classified under entry no. 252 of Schedule 1 of Notification no. 1/2017 – Central Tax (rate) and taxed at the rate of 5%.

3. Appellant humbly submits that ARA has not really understood exact nature and function of the specified goods.
4. The exact nature and function of each of the specified goods is as under:

Navigational Telex (NAVTEX - Sr. No.L), **Search and Rescue Transporter** (SART - Sr. No. T) and **2 Way RT** (Walkie Talkie – Sr. No: V)

NAVTEX, SART and 2 WAY RT along with other equipment constitute the list of equipment comprising Global Maritime Distress and Safety System (GMDSS) which is an internationally agreed-upon set of safety procedures, types of equipment, and communication protocols used to increase safety and make it easier to rescue distressed ships, boats and floating rigs and platforms

The system is intended to perform the following functions: alerting (including position determination of the unit in distress), search and rescue coordination, locating (homing), maritime safety information broadcasts, general communications, and bridge-to-bridge communications.

Main components of GMDSS are as under:

- a. Very High Frequency (VHF)
- b. Medium / High Frequency communication (MF/HF)
- c. Inmarsat C with printer
- d. Emergency Positioning Indicating Radio Beacon (EPIRB)
- e. Search and Rescue Transponder (SART)
- f. Navigational Telex (NAVTEX)
- g. 3 Nos. 2 way RT with one spare battery

All the above equipment fall under the same rule and requirement and are for the purpose of communication, especially when the ship is in distress.

ARA, vide their order has held that components at (a) to (d) above are integral part of ship and entitled to concessional rate of 5%.

However, item (e), (f) and (g) i.e. SART , NAVTEX and 2 way RT are held by ARA to be additional equipment liable to tax under their respective HSN at higher rate of 18%.

5. Appellant strongly contends that like parts stated in (a) to (d) above, SART,NAVTEX and 2 way RT are also integral components of GMDSS. All the above components (a) to (f) including SART, NAVTEX and 2 way RT are essential components to ensure compliance with GMDSS which is an internationally agreed upon system. All the parts / components collectively ensure compliance of GMDSS.GMDSS cannot be complied with if any of the above parts or components are missing.
6. The Physical fitment of both SART ,NAVTEX and 2 way RT is done when the ship is being built and it requires hot work etc; which makes the SART, NAVTEX and 2 way RT physically, a part of a Ship.

In view of above we humbly submit that SART , NAVTEX and 2 way RT [item no. (e) (f) and (g)] should be treated at par with item (a) to (d) [which ARA has held to be essential part of ship liable to tax at 5%) for classification and applicable tax rate.

7. The Automatic Identification System (AIS) is an Automatic Tacking System that uses transponders on ships and is used by vessel traffic services (VTS).AIS information supplements marine radar, which continues to be the primary method of collision avoidance for water transport.

AIS is intended to assist a vessel's watch standing officers and allow maritime authorities to track and monitor vessel movements. AIS integrates a standardized VHF transceiver with a positioning system such as a GPS receiver, with other electronic navigation sensors, such as a gyrocompass or rate of turn indicator. The Appellant has also referred to the photographs of AIS which they have enclosed as part of the submissions made during the appeal.

The International Maritime Organization's International Convention for the Safety of Life at Sea requires AIS to be fitted aboard international voyaging ships and all passenger ships.

Installation of AIS is laborious, with a lot of cable laying and antennas which are fixed on the mast of the ship at the time when the ship is being built. It, therefore, physically also, is an integral part of ship which helps in tracking vessel movements.

8. Voyage data recorder, or VDR, is a data recording system designed for all vessels required to comply with the IMO's International Convention SOLAS Requirements in order to collect data from various sensors on board the vessel. It then digitizes, compresses and stores this information in a protective storage unit. The appellant have referred to the photographs of VDR which were enclosed as part of the submissions.

The protective storage unit may be in a retrievable fixed unit or free float unit when the ship sinks in a marine accident. The last 12 hours of stored data in the protected unit can be recovered and replayed by the authorities or ship owners for incident investigation.

Installation of VDR is again laborious and requires fitting of various cables and antennas in order to capture data from various sensors on the vessel. VDR becomes integral part of ship and is essential for accident investigation and is also used for preventive maintenance, performance efficiency monitoring, heavy weather damage analysis, accident avoidance and training purposes to improve safety, and reduce running costs.

9. **Fish Finder (FCV – Sr. No. P) & Sound Navigation and Ranging (SONAR – Sr. No. Q)**

A fishfinder is an instrument used to locate fish underwater by detecting reflected pulses of sound energy, as in SONAR.

It is logical that when a fishing vessel is being built, whose main purpose is to locate fish, the fish finder and the sonar would be an intrinsic and essential part of the fishing vessels.

Fish Finder has a transducer which is fitted into the hull of the ship and is therefore certainly a part of the ship beyond any shadow of doubt. Both these equipment require a lot of hot works for installation during the construction stage of the ship itself as the sensors are part of the Hull.

The display unit of the Fish Finder is fixed on the bridge of the ship to enable the Captain to locate the fish in the sea.

The appellant have also referred to photographs of FCV and SONAR which are enclosed as part of the submissions.

10. NAVTEX, SART, AIS and VDR are of critical nature and are mandated by IMO (International Maritime Organization) to establish the sea worthiness of a ship. Ship cannot function as a ship unless it is sea worthy. Without above referred parts, ship cannot be certified as sea worthy.
11. In the case of SONAR and FISH FINDER, the very purpose of Fishing Vessel, is to locate fish and therefore in the case of fishing vessels, these items are extremely necessary and physically installed in the hull of the ship. This can only be done during the construction stage of a ship or when the vessel is in drydock. This, itself, validates that FISH FINDER and SONAR are intrinsic part of fishing vessel.
12. Hence, all these equipment/parts/spares are essential part of the ship without which ship would not be performing its essential function of sailing in the sea.
13. Notification 01/2017 –CGST dated 28th June, 2017 states that the “classification of goods should be as per the rules of classification enshrined in the Customs Act, 1962.”
14. Relevant portion of Rule 3(a) of the customs valuation rules reads as under:

“When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

The heading which provides the most specific description shall be preferred to headings providing a more general description.”
15. As stated above, the specified goods are necessarily parts of the ship, in view of their functionality and technical aspects to make the ship sea worthy.
16. The meaning of the term “spares” referred above, incorporates a wide ambit of products and therefore would lead to a generic classification of goods.

Dictionary meaning of the term “spare part” is:

*"Parts that you can buy separately to replace old or broken **parts** in a piece of equipment. They are usually parts that are designed to be easily removed or fitted."*

(Collins Dictionary)

Dictionary meaning of the term "**part**" is:

"A part of something is one of the pieces, sections, or elements that it consists of".

(Collins Dictionary)

It becomes crystal clear that spare parts supplied by appellant are used to replace parts which are the elements of the ship.

17. Classification of goods supplied by appellant; as **part of ships**; would be more specific and can be attributed as the products of relevant to a particular industry; namely shipping industry and would therefore provide clarity in identifying the same.
18. M/s. Saraswati Metal Industries had approached Authority for Advance Ruling, Kerala, praying for ruling for similar goods under the very same notification under consideration in the present case, Hon'ble AAR Kerala, vide its order No. CT/5496/18-C3 dated 29.05.2018 [2018-TIOL-46-AAR-GST], had held that commodities such as marine propellers, rudder set, stern tube set, propeller shaft and M.S.Shaft for couplings are mainly used as a part of fishing/floating vessels and the same would be covered under Entry 252 of Schedule I of Notn.Non.1/2017-CT(R) and taxable @ 5% [CGST + SGST]
19. Appellant strongly relies on the decision of the Honorable Supreme Court in its own case i.e. Commissioner of Customs, Mumbai Appellant(s) VERSUS M/s. A.S. Moloobhoy & Sons & Ors. Respondent(s) WITH CIVIL APPEAL NOS. 3115-3117 OF 2015, where the Honorable Court declined to interfere with the order passed by the Tribunal, wherein it was held that these **imports of equipment and spares should be treated as one for "the purpose of ship repair."**
20. Shri Ravi Krishnamurthy, Chartered Engineer, vide his certificate dated 10.06.2018, has certified that Navigation Equipment and their associated spares, Communication Equipment and their associated spares, lifesaving/firefighting equipment and their associated spares, etc., detailed therein, are integral part of a ship without which

ship cannot sail and would not be considered seaworthy as per the IMO/SOLAS/guidelines. It is further certified that every ship being built at any shipyard must include these equipment and its associated spares to construct a sea worthy vessel. This itself proves that during the construction of a ship these items are indivisibly part of ship and therefore incorporated from the very beginning at construction stage

21. The said certificate would substantiate that the specified goods under consideration are parts of goods of heading 8901, 8902, 8904, 8905, 8906 and 8907.
22. Appellant reiterates that goods supplied by them, are of critical nature, without which the ship would not be permitted to sail and are also physically part of a ship and therefore such equipment or parts thereof should be classified as "Parts of ship" and should be taxed at the rate of 5%, as such individual goods are supplied as a part of the ship or vessel, to ensure that the ship is sea worthy. Such goods cannot be classified as spares separately in their own right.
23. Further, it has been submitted by the appellant that a typographical error, as discussed above, has occurred in the order of ARA, which needs to be rectified.
24. In view of what is stated above, appellant has prayed to modify the impugned order passed by Advance Ruling Authority so as to classify **specified goods** under entry no. 252 of Notification no. 1/2017 – Central Tax (Rate) dated 27.06.2017 entitled to concessional rate of tax at 5% (2.5% CGST & 2.5% SGST or 5% IGST).

Personal Hearing

25. Personal Hearing in the instant appeal has been conducted on 29.01.2019, where Ms. Nafeesa Adil, appearing for the appellant, reiterated the written submission filed during the time of appeal. Shri D.K. Gadhave, appeared on behalf of the respondent, reiterated the submissions, which were earlier made before the Advance Ruling Authority.

Discussions and findings

26. We have perused the records on file and gone through the facts of the case and the submissions made by the appellant and the department. The appellant is engaged in the business of sale and distribution of Marine Distress Signals, EPIRB, SART, marine chemicals navigation and communication and also providing lifesaving equipment related to the marine industries. The appellant imports various goods and spares which are supplied to ships.
27. The issue raised before us by the appellant is whether certain parts, equipment which are used on ships form a part of the ship and therefore chargeable to tax @ 5% under Sr.No.252 of the Notification No.1/2017 C.R. (Rate) dt.28.06.2017. The AAR through their order dt.18.07.2018 have ruled that the following products would not come under Sr.No.252 of the Notification No.1/2017 as they are not essential parts of the ship and are in the nature of additional equipment.

| | |
|---|------------------------------------|
| F | Automatic Identification System |
| L | Navtex |
| N | Voyage Data Recorder |
| P | Fish Finder |
| Q | SONAR |
| T | SART Search and Rescue Transponder |
| N | Two Way RT Walkie-Talkie |

In the order passed by the AAR, it was held that certain parts as essential parts of the ship and this includes Radar Ship Security Alert System, EPIRB amongst others.

28. It is seen from the grounds of appeal that NAVTEX, SART and Two Way RT Walkie-Talkie, AIS and Voyage Data Recorder along with other equipment constitute the list of equipment comprising GMDSS (Global Maritime Distress & Safety System). GMDSS is an international system which uses terrestrial and satellite technology and ship board radio system to ensure rapid alerting of shore based rescue and

communication operations in the event of an emergency. The system was developed by the International Maritime Organization. During the 18th century, the ships sailing in international and coastal waters were dependent on the Morse code to send any kind of distress signal to a coastal authority or ships in the nearby vicinity during emergency. Since it was a transmission of texture information using tones or lights, this kind of message was never very clear to understand what kind of emergency is there on board ships. Therefore, an internationally agreed safety procedure was adopted by IMO under SOLAS (Safety of Life at Sea chapter IV) which is known as GMDSS- Global Maritime Distress Safety System. It is mandatory for all ships subject to the International Convention for the (SOLAS) to have GMDSS equipment installed aboard and its global implementation became effective on 1st February, 1999. The SOLAS is an international maritime agreement which requires Signatory States to comply with minimum safety standards. All ships over 300 gross tonnage on international voyages and hence subject to 1974 SOLAS Convention are required to comply with the requirements of the **GMDSS** since 1st February, 1999

29. A document on the website www.imo.org provides information on GMDSS. GMDSS was introduced in 1988 and became fully operational on 1.2.1999. On that date, the Morse code was phased out and all passengers' ships and cargo ships of 300 gross tonnage are required to carry equipment designed to improve the chances of rescue following on accident. The equipment includes amongst others EPIRB, SART and NAVTEX. The paper lists Inmarsat, Enhancing Group Calling, EPIRB, HF Services, Medium Range Services, Short Range Services, Radar Transponder, NAVTEX, Radio Personnel and WWNWS as GMDSS equipment. GMDSS equipment includes BHF/MF/HF, INMARSAT Net Work, EPIRB, SART, NAVTEX and AIS (Automatic Identification System).
30. Thus, from the above it is seen that SART, NAVTEX are essential components of the GMDSS and as per SOLAS Convention of IMO, ships are required to carry the above equipment. SART -A search and rescue transponder is a self-contained, waterproof transponder intended for emergency use at sea. These devices may be either a radar-SART, or a GPS-based AIS-SART. The radar-SART is used to locate a survival craft or distressed vessel by creating a series of dots on a rescuing ship's radar

display. It is used to ease the search of a ship in distress. NAVTEX is an international service for receipt and broadcast of weather and other warnings. It can broadcast different classes of mishaps like navigation warnings, meteorological warnings, Ice reports, search and rescue warnings, weather forecast, navigation messages etc. In an advisory of the Directorate of Lighthouses and Lightships (DGLL) under the Ministry of Shipping and under the title of 'Establishment of NAVTEX Chain', the following is given:

*.. " NAVTEX (Navigational text messages) is a system to deliver local weather reports and navigational warnings to ships operating in coastal areas. It is an international automated direct printing service for promulgation of navigational and meteorological warnings and urgent information to ships. It has been developed to provide low cost, simple and automated means of receiving maritime safety information on board ships at sea in coastal waters. The NAVTEX system automatically broadcasts localised Maritime Safety Information (MSI) using Radio Telex (also known as Narrow Band Direct Printing, or NBDP). The information transmitted may be relevant to all sizes and types of vessel and the selective message rejection feature ensures that every mariner can receive a safety information broadcast which is tailored to his particular needs. For this on board a vessel a corresponding NAVTEX receiver as a part of SOLAS requirement is installed. **NAVTEX is a component of the IMO/IHO World Wide Navigational Warning Service (WWNWS) defined by IMO Assembly Resolution A.706 (17) as amended, and the WMO Manual on Marine Meteorological Services. .***

31. The DGLL has established National Navtex Network to provide coverage through 7 transmitting stations along the coast line of India at Veraval, Vengurla Point, Muttom Point, Portnovo, Valakpudi, Balasore, Keating Point. Information is collected from NHO, IMD, ICG and DG Shipping regarding NavArea warning, weather information, Search & Rescue and safety related messages respectively.
32. The IMO publishes manuals for regulation of safety at sea, and the as per the 2018 manual the following is stated:

"NAVTEX fulfills an integral role in the GMDSS developed by the IMO and incorporated into the 1988 amendments to the International Convention for the Safety of Life at Sea (SOLAS), as a requirement for ships to which the Convention applies."

33. The National Maritime Search and Rescue Manual (for the Indian Coast Guard) makes SART mandatory for all ships. It is also an essential part of the GMDSS.
34. Automatic Identification System (AIS) is a system that ships use to automatically transmit their identity, position, course, speed and destination to each other and to coast stations. This information can be used by other ships to take account of their movements and by coast stations for coastal surveillance and vessel traffic management. Special software can make this information available on a screen or radar plot. AIS is also a part of the global maritime safety system (GMDSS). All ships over 300 tons must carry an AIS system which broadcasts information about the ship to any suitably equipped receiver. It is seen from a circular issued by the Directorate General of Shipping (DGS/ISPS/2/2013 dt 14.5.2013) that "Automatic Identification System (AIS) is required to be fitted as per Regulation V/19 of the SOLAS Convention, which sets out navigation equipment to be carried on board ships.... Also, further - 'Ship Masters/Owners/managers/operators should take note of the provisions of such equipment, aforesaid functional requirement of the AIS and abide by the same. Any violations in this regard may attract appropriate punitive action, including non-issuance of appropriate statutory inspection/certificate."
35. We agree with the contention of the appellant that if EPIRB which is a critical element of GMDSS is classified as part of the ship under Sr.No.252 then there is no reason to exclude SART, NAVTEX and AIS from it.

GMDSS includes the following systems:-

- a) Communication equipment.
- b) Positioning and localization system.
- c) Maritime safety information.

EPIRB on SART are a part of the positioning and localization system and NAVTEX is a part of maritime and safety information.

36. **Voyage Data Recorder**, or VDR, is a data recording system designed for all vessels required to in order to collect data from various sensors on board the vessel. It then digitizes, compresses and stores this information in an externally mounted

protective storage unit. Like the black boxes carried on aircraft, VDRs enable accident investigators to review procedures and instructions in the moments before an incident and help to identify the cause of any accident. However, they are not a part of the GMDSS and it cannot be said that they are parts of ships.

37. As regards FishFinders and SONAR, they are not a part of GMDSS. Neither are they integral to the function of the ship. They only help certain vessels which are fish vessels to locate fish and increase the accuracy in finding fish shoal. Therefore, they would not be part of a ship as they are not integral to the functioning of the ship. Also, they are not attached to all ships but only to fishing vessels and therefore have specific application. They assist in the operation of the vehicle for the purpose to which they are dedicated to and they are not mandatorily required to be attached to all ships. A part of a thing qualifies to be a part only when it is so essential and integral to the whole that the whole cannot function without it. The SONAR or Fish Finder do not conform to the definition of a part given above. We therefore agree with the finding of the AAR that Fish Finder and Sonar are not part of the ship.
38. We also agree with the finding of the AAR that the Two Way RT does not find the place in the GMDSS. It is used for internal communication for the staff of the ship. A walkie-talkie has general application and cannot be said to be specific to the functioning of the ship. We therefore hold that the walkie-talkie would not form part of the ship and would not be covered by Sr. No.252 of Notification No.1 of 2017.
39. In view of the above findings, we pass the following order:

ORDER

40. We modify the ruling pronounced by the Advance Ruling Authority vide their Order no. GST-ARA-14/2017-18/B-71 dated 18.07.2018 and hold that 'Automatic Identification System'(AIS), 'NAVTEX' and 'SART' are covered by Sr. No.252 of Notification No.1 of 2017 -Central Tax (Rate). We uphold the ruling of the Advance Ruling Authority to the extent that 'SONAR and Fish Finder', 'Voyage Data Recorder'

(VDR) and 'Two Way RT Walkie-Talkie' would not be covered by Sr. No.252 of Notification No.1 of 2017 -Central Tax (Rate).


(RAJIV JALOTA)

MEMBER


(SUNGITA SHARMA)

MEMBER

- Copy to- 1. The Appellant
2. The AAR, Maharashtra
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