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/RS-SK/ 32 /2020-21 **Date-** 26.11.2020

BEFORE THE BENCH OF

(1) Shri Rakesh Kumar Sharma, Member (Central Tax)

(2) Shri Sanjeev Kumar, Member (State Tax)

Name and Address of the Appellant:	The Deputy Commissioner, Division – IV (Chakan), Pune-I Commissionerate
Name and Address of the Respondent:	M/s. A Raymond Fasteners India Pvt. Ltd. Gate No.259,276/8B, Nighoje Chakan, Tal-Khed, Pune-410501.
GSTIN Number:	27AAGCA7184G1ZH
Clause(s) of Section 97(2), under which the question(s) raised:	(a) Classification of any goods or services or both;
Date of Personal Hearing:	15.10.2020
Present for the Respondent:	Shri Nishant Shah, Advocate
Details of appeal:	Appeal No. MAH/GST-AAAR-04/2020-21 dated 28.08.2020 against Advance Ruling No. GST-ARA-47/2019-20/B-33, dated 17.03.2020.

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

1. 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.

2. 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" respectively**] by the Deputy Commissioner, Division – IV (Chakan), Pune-I Commissionerate (**"the Appellant"**) against the Advance Ruling No. **GST- GST-ARA-47/2019-20/B-33, dated 17.03.2020,** pronounced by the Maharashtra Authority for Advance Ruling **(hereinafter referred to as "the MAAR").**

BRIEF FACTS OF THE CASE

3.1 M/s. A Raymond Fasteners India Pvt. Ltd., (hereinafter referred to as "**the Respondent**") having registered address at Gate No.259, 276/8B, Nighoje Chakan, Tal-Khed, Pune-410501, is engaged in the manufacture of the Industrial clips and fasteners, which are used by their customers, dealing in the manufacture of automobiles, electrical appliances, solar energy equipment, etc.

3.2 The Respondent, vide application, dated 27.9.2019, had filed an application before the MAAR seeking Advance Ruling in respect of ten questions pertaining to classification of the goods manufactured by them. The MAAR, vide Ruling No. GST-ARA-47/2019-20/B-33, dated 17.03.2020, answered the first question sought by the Appellant. The remaining nine questions were not answered by the MAAR, stating that the Applicant had raised multiple questions requesting for classification of many products which cannot be clubbed into one single category, therefore, the Respondent should have applied for each product individually since classification is sought for each individual product. The MAAR took up only the Respondent's query with respect to the first question, which is being mentioned as under: -

Q.1. Whether threaded metal nuts which function same as standard nuts, merit classification under the Tariff item 7318 16 00 and not under Tariff item 8708 99 00?

3.3 The MAAR, vide its Ruling dated 17.03.2020, held that the threaded metal nuts merits classification under the Tariff Item 7318 16 00 and not under the Tariff Item 8708 99 00. The MAAR has based the aforesaid ruling to the provisions laid under the *section*

Note 2(b) of Section XVII, which states that the expressions "parts" and "parts and accessories" do not apply to parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), thereby, holding that the subject goods which are parts of general use, are barred from being considered as "parts and accessories" of motor vehicles, as the said goods were used in many fields including electronic goods, solar energy and vehicles."

3.4 Aggrieved by the aforesaid Advance Ruling passed by the MAAR, the Jurisdictional Officer, Deputy Commissioner, Division – IV (Chakan), Pune-I Commissionerate, has preferred the present appeal before the Maharashtra Appellate Authority for Advance Ruling (hereinafter referred to as **"the MAAAR"**) on the following grounds:

GROUNDS OF APPEAL

4. The Appellant, in its appeal memorandum, inter alia, has mentioned the following grounds of appeal:

4.1 That the facts have been misrepresented by the Respondent before the MAAR that the goods in question i.e. metal nuts (with or without metrical threads) are essentially similar to standard nuts and may be used in other industries apart from automobiles/vehicles. However, it is revealed that the goods in question, i.e. threaded metal nuts or the fasteners, are manufactured and supplied to automobile manufacturers/customers as per the specifications required by the customers and drawings as approved by their automobile customers. Accordingly, the purchase orders are issued by the customers for the fasteners required by them as per their specifications. Sample design in respect of the 'Metal Nut', required by M/s. Tata Motors Ltd., Purchase Orders issued by Tata Motors Ltd. to the Respondent, and the relevant invoices issued by the Respondent are evidence to this fact.

4.2 That the MAAR's Ruling, dated 17.03.2020, has not taken note of Hon'ble Supreme Court in the case of ***G.S. Auto International Ltd. Versus Collector of C. Ex., Chandigarh, 2003 (152) E.L.T. 3 (S.C.)***, wherein while examining the **classification of the identical goods**, the Apex Court held as under:

22. So far as Civil Appeal No. 5711 of 1999 is concerned, the classification of goods was done under the Central Excise Tariff Act, 1985 (for the post-1986 period). The competing Heading numbers are 73.18 and 87.08, which reads as under: -

Heading No.	*Sub-Heading No.*	*Description of goods*	*Rate of duty*
(1)	*(2)*	*(3)*	*(4)*
73.18		*Screws, bolts, nuts, coach-screws, screw-hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel*	
	7318.10	*-Threaded articles*	*20%*
Heading No.	*Sub-Heading No.*	*Description of goods*	*Rate of duty*
(1)	*(2)*	*(3)*	*(4)*
87.08	*8708.00*	*Parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05*	*20%*

23. Now, we shall refer to the relevant notes under Sections XVII and XV respectively. Notes 2(b) and (3) of Section XVII read as follows:

"2. expressions 'parts' and 'parts and accessories' do not apply to the following articles, whether or not they are identifiable as for the goods of this Section :

(a) xxx xxx

(b) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);"

"3. References in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory."

24. Section XVII deals with Vehicles, Aircraft, Vessels and Associated Transport Equipment. Note 2 says that the expression "parts" and "parts and accessories" do not apply to the articles mentioned in clauses (a) to (l) thereunder. In clause (b), parts of general use as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39), are mentioned. This takes us to Note 2(a) to Chapter XV, which provides that throughout that Schedule, the expression "parts of general use" means:

(a) Articles of "Heading No. 73.07, 73.12, 73.15, 73.17 or 73.18 and similar articles of other base metal;"

25. Note 3 says that references in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts or accessories which are not suitable for use solely or primarily with the articles of those chapters and that a part or accessory which answers to a description in two or more headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

"26. A conjoint reading of the Notes, referred to above, would show that the expression "parts of general use" throughout the Schedule, means, inter alia, articles of Heading No. 73.18 and similar articles of other base metal; and the expression 'part and accessories' in Chapter Heading 87.08 does not apply to parts or accessories which are not suitable for use solely or primarily with articles of Chapter Heading 87.08 which pertains to parts and accessories of motor vehicles of Chapter Heading Nos. 87.01 to 87.05. For the purposes of classification under Chapter Heading 87.08, the test to be applied is: whether the goods are suitable for use solely or primarily with articles of Chapter Heading Nos. 87.01 to 87.05;

if the answer is in the affirmative, the goods will be classifiable under Chapter Heading 87.08, but if the answer is in the negative, they would have to be classified under Chapter Heading No. 73.18. Having regard to the finding that the goods in question cannot but be regarded as parts of automobiles, it has to be held that they are suitable for use primarily with articles of Chapter Heading Nos. 87.01 to 87.05. It follows that the goods in question cannot be treated as falling under Chapter Heading No. 73.18 and that they can properly be classified under Chapter Heading No. 87.08 of the Central Excise Tariff Act, 1985."

4.3 That the relevant section notes of both the sections XV & XVII remain same in Central Excise Tariff & GST Tariff. Also, the referred classification in the above decision was under the erstwhile Central Excise regime, but since the Central Excise tariff too was based on HSN as Customs Tariff is., the decision shall squarely apply in the GST era.

4.4 That it is a fact that the Respondent is manufacturing and supplying goods/metal nuts/fasteners primarily to automobile industry. Therefore, as per settled position as laid down by the Hon'ble Supreme Court in the case of GS Auto *(Supra)*, the goods in question i.e. 'threaded metal nuts' merits classification under Tariff Item 8708 99 00.

4.5 That the Advance Ruling Authority's order is mainly based on the grounds that as per section note 2(b) of Section XVII of Tariff, the 'threaded metal nuts' merits classification under Tariff Item 7318 16 00, whereas the Supreme Court Judgment that 'threaded metal nuts' merits classification under Tariff Item 8708 99 00, is on the basis of conjoint reading of the section notes of section XV & section XVII of the Tariff.

4.6 That reliance has also been placed on the Hon'ble Supreme Court Judgement in the case of ***Cast Metal Industries (P) Ltd. Versus Commissioner of C. Ex.-IV, Kolkata, 2015 (325) E.L.T. 471 (S.C.),*** wherein it has been held that *to determine the applicability of the item under particular head, the test of commercial identity of the goods would be the relevant test and not the functional test.* The Advance Ruling dated 17.03.2020 has also failed to take note of the aforesaid decision of the Supreme Court.

4.7 In view of above, it is submitted that the "Threaded metal nuts" merits classification under the Tariff Item 8708 99 00.

RESPONDENT'S SUBMISSIONS

5. In response to the aforesaid appeal filed by the jurisdictional officer, the Respondent has filed the following submissions:

5.1 That the grounds of the Appellant, wherein it has been alleged that the Respondent is supplying the impugned products to the automobile industry, is baseless and misleading as it is an admitted fact before the MAAR that the disputed products are supplied to the customers operating in industries other than automobile industry; that the Respondent has supplied the impugned products to the customers operating in electronic goods industry; that as an evidence in this regard, the Respondent has also produced the invoices issued to M/s. Schneider Electric, which operates in the Electronic goods industry.

5.2 That classification of the product is not dependent on clearance of the product; that it has been sufficiently established by a catena of judgments that the end use of a manufactured product cannot determine the classification of the product when the same falls under a specific heading. Reliance in this regard has been placed on the following Judgments passed by the Hon'ble Supreme Court:

(i) India Aluminium Cables Ltd. Vs. Union of India [1985 (21) E.L.T. 3(S.C.)]

(ii) Commisisoner of Central Excise Vs. Carrier Aircon Ltd. [2006(199) E.L.T. 577 (S.C.)]

5.3 That reference has been made to the Hon'ble Supreme Court Judgment in the case of Dunlop India V/s. Madras Rubber Factory [1983(13) ELT 1566 (S.C.)], wherein it was observed by the Hon'ble Supreme Court that where there is no specific reference to the end use or adaption of a particular article in a Tariff entry, the end use of the product cannot be the basis for classifying a product under such a Tariff entry. Thus, the Appellant's contention in as much as the classification of the impugned product should be dependent on the clearance of the product is not tenable.

5.4 That on perusal of the Section Note 2(b) of Section XVII of the First Schedule of the Customs Tariff Act, 1975, it is understood that the expressions "parts" and "parts and accessories" do not apply to "parts of general use" defined in Note 2 to Section XV of the First Schedule to the Customs Tariff Act, 1975. In terms of Section Note 2(a) of Section XV of the Customs Tariff Act, 1975, products classifiable under the Heading 7318 tantamount to "parts of general use" and are therefore disqualified from being

classified under Section XVII, which contains Chapter 87. This is also corroborated by the explanatory note to the Heading 7318 of HSN.

5.5 Further on perusal of the Section Note 3 of Section XVII of the First Schedule to the Customs Tariff Act, 1975, it is understood that references to the expressions "parts" or "accessories" in chapter 86 to 88 do not cover within their ambit parts or accessories which are not suitable for use solely or principally with the articles of those chapters. Thus, as the disputed products are being used by multiple industries as parts of general use, they merit classification under Tariff Heading 7318 and not under the Heading 8708; that reliance in this regard have also been place on the following judgments:

*(i) **Commissioner of C.Ex., Bombay-I Vs. Automatic Engg. Works [2001 (130) E.L.T. 331 (Tri-Mumbai)] ;***

*(ii) **Spire India Vs. Commissioner of C.Ex., Mumbai [2006(200) E.L.T. 539 (Tri-Mumbai)].***

5.6 Reliance has also been placed by the Respondent on the judgment passed by the Hon'ble Supreme Court in the case of Commissioner of Central Excise Vs. Uni Products India Ltd. [2020] 116 taxmann.com 401 (SC), dated 01.05.2020. Drawing an inference from the above cited case, the Respondent contended that without prejudice to their earlier submissions, even if the subject product, i.e. threaded metal nuts, are made exclusively for use in automobiles, they do not merit classification under the Heading 8708 of the GST Tariff, as it is more appropriately classifiable under another specific chapter of the GST Tariff.

5.7 In view of the above submissions, the Respondent has submitted that the impugned product be classified under the heading 7318 and not under the heading 8708 of the GST Tariff.

APPELLANT'S /DEPARTMENT'S ADDITIONAL SUBMISSIONS DATED 13.10.2010

6. The Appellant vide their letter dated 13.10.2020 made the following additional submissions:

(i) That the Respondent, in Annexure II to their application dated 19.09.2019, themselves had acknowledged at Para No. 5 that " In the pre-GST regime, Threaded Metal Nuts were classified under Chapter 87 of the First Schedule to the Central Excise Tariff Act, 1985, which pertains to "Vehicles other than railway or tramway rolling stock" and more specifically, under the Heading 8708 and Tariff Item 87 08 99 00...."

(ii) That this admitted legal position by the Respondent itself proves that the classification of the goods in question was settled in pre-GST era, as laid down by the Hon'ble Supreme Court in G.S. Auto International Ltd Vs. Collector of Central Excise, Chandigarh. The said legal position continues to be applicable during the GST regime also, as there is no change in classification and legal position in respect of the referred classification in GST era.

(iii) That it is also a fact on record that the goods under question are primarily used in automobiles. The said fact was noted by the MAAR at Para 5.1 in their findings in the impugned order dated 17.03.2020. The same is being reproduced herein under:

*"**5.1** We find that the applicant is a registered person under GST Act and involved in the developing and manufacturing of various types of fasteners and other accessories for a variety of industries. Applicant is engaged in the manufacture of, amongst others, industrial clip fasteners and prototyping assembly systems, **which are primarily used in automobiles**. Products manufactured by the Applicant are supplied locally, typically to businesses which are registered under GST Act all over India."*

(iv) That the Respondent, in their application filed before the MAAR, had submitted that they were supplying "essentially similar goods" to other industrial users by showing comparison from 'Description of Goods' such as Metal Nuts with metrical threading, Metal Nuts without metrical threading, Metal Spring Nuts and images of the product/good to project/claim the "disputed products" as 'parts/goods of general use'. They have never said that "the identical goods/the very goods which are manufactured for automobile customers *as per particular specifications of automobile customer and drawings as approved by the automobile customers*, are supplied to other industrial users".

(v) The same is evident from comparing sample copies of invoices in respect of M/s. Tata Motors Ltd. enclosed by the department with appeal and sample copies of invoices in respect of M/s. Schneider Electric IT Business provided by respondent with its response/submission dated 04-09-2020. It is worth noting that 'M/s. A Raymond Fasteners India Pvt. Ltd.'s own material number /code' (i.e. 'AR - Mat. No' as mentioned in their sale invoices) is different for "disputed products" i.e. "Metal-Nut" sold to M/s Tata Motors Limited and M/s Schneider Electric IT Business India Pvt. Ltd.

A Raymond's Invoices Number & Date	Customer Name	A Raymond's Material No. (AR-Mat-No.) as per invoice
3419000797 dated 10.01.2019 and 3419020021 dated 20.05.2019	Tata Motors Ltd.	0121480002
3419024459 dated 18.06.2019 and 3419025059 dated 22.06.2019	Schneider Electric IT Business	130793007

(vi) The drawing in respect of Tata Motors Ltd. relied upon with the appeal also shows the Material No. (0121480002) of the Respondent and also of Tata Motors Ltd.'s Drawing Document No. (287081104304) (as mentioned in their Purchase Order), which is same as Tata Motors Part No. as being reflected in the Drawing of the Respondent. It proves customization/tailor made requirement of the goods in question and its suitability of use by the automobile manufacture for the vehicles manufactured by them. It also shows that the goods in question cannot be considered as parts of general use.

PERSONAL HEARING

7. A personal hearing in the matter was held on 15.10.2020, which was attended by Shri Vikram Phadke, Deputy Commissioner as the representative of the Appellant, and by Shri Nishant Shah, Advocate, in the capacity of the Respondent in the subject case.

7.1 During the course of the personal hearing, the jurisdictional officer, apart from reiterating the earlier submissions made in the appeal memorandum, made the following additional submissions:

(i) The Respondent, apart from fasteners/nuts manufactured and supplied to general customers also manufacture and supply metal nuts/fasteners, customized and tailor made as per the specifications, drawing designs approved by the automobile manufacturers.

(ii) The sample Purchase Order/Invoice and drawing in respect of Metal Nuts manufactured and supplied to Tata Motors Ltd., as relied upon by the Department in the Grounds of Appeal, are evidence to the fact that the impugned goods are manufactured as per the specifications of automobile manufacturers, therefore, the goods manufactured by the Respondent cannot be considered as parts of general use as they are suitable for use primarily in automobile industry. Their views are supported by the law laid down by the Hon'ble Supreme Court in the case of ***G.S. Auto International Ltd. Vs. Collector of Central Excise, Chandigarh, reported in 2003 (152) E.L.T. 3 (S.C.)***

(iii) It was further submitted that issue of classification of fasteners used with automobiles/vehicles is being investigated by DGGI, Pune Zonal Unit for GST period. In this regard, an incident report issued by DGGI, Pune Zonal Unit, has also been furnished. The Appellant also submitted that many major fasteners are under investigation by DGGI, PZU. They also submitted that the issue of classification of fasteners used in automobiles has Pan India ramifications and involve huge amount of Government Revenue.

(iv) As regards the Tribunal Judgments relied upon by the Respondent in the cases of Automatic Engineering Works and Spire India Ltd., it was submitted that the facts and circumstances of these judgments are different from the facts and circumstances of the case at hand, hence not applicable.

(v) As regards the Hon'ble Supreme Court judgment in the case of Uni Products India Ltd. relied upon by the Respondent, it was submitted that the issue involved in the above mentioned case was classification of 'Car Mats made of textile material', and the said decision in the said case was based on the facts that the 'Car Mats made of textile material' were specifically excluded from Chapter 87. Hence, the ratio of the said decision is not applicable in the case at hand.

(vi) As regards the Respondent's plea that the goods manufactured by them are parts of general use/generic, it was contended by the Appellant that the impugned goods are customised/tailor made and suitable for use in automobiles. The Appellant further contended that as a matter of fact, generic goods do not require any specifications and conditions whereas the Purchase Order/Invoice/Drawing relied upon by the Department clearly show the customized / tailor made nature

of goods in question. Hence, the goods in question cannot be considered as 'generic' or 'general parts use'.

(vii) That the Respondent has failed to establish that the identical goods i.e. goods manufactured as per the specifications of automobile customers/manufacturers and drawings approved by the said automobile customers are also supplied to customers from the industries other than automobile sector.

(viii) That the Part No./Material Code of the Respondent in respect of the goods supplied to M/s. Schneider Electric IT Business and to M/s. Tata Motors Ltd. is altogether different as evident from the respective invoices. That it is pertinent to note that the Respondent is not at liberty to supply the impugned goods in the spare market as is evident from the sample purchase order of M/s. Tata Motors Ltd. attached with the appeal memorandum.

(ix) As regards the Respondent's plea that they had designed the impugned goods, it is submitted that the said drawing/design is approved by the Automobile Customer unlike the Standard goods, generic, or parts of general use, wherein the customers approval is not warranted.

8. The Respondent, apart from reiterating their earlier submissions filed before us, made the following submissions:

(i) That the reliance placed by the Department on the documents, such as, Purchase Order issued by M/s. Tata Motors Ltd., Invoice issued by the Respondent to M/s. Tata Motors Ltd., is misplaced in as much as the Metal Nuts, which come with various specifications depending upon size, shape, etc. are provided with unique part number, i.e., SKU (Stock Keeping Unit) as a part of Internal Control Mechanism. This practice is similar to practice followed by different businesses for identification of products. Thus, merely provision of such part to customers of various industries cannot lead to change in the nature of the part and it continues to be called as a Metal Nut.

(ii) That mere supply of such nuts on approval of design by their customer, i.e., M/s. Tata Motors Limited, does not make it an automobile product as alleged by the Department. It is not the case here where the company has manufactured nuts based on drawings provided by Tata Motors. Tata Motors, as a business practice, ask for the drawings of the Metal Nuts to check whether the nuts to be supplied are suitable for their products. That the supply of drawings and approval thereof is part of the business process upon which sale purchase

transactions are entered. This normal business cannot be construed as preparing the product dedicating to the automobile industry.

(iii) As regards the Hon'ble Supreme Court in the case of the G.S. Auto International Ltd., relied upon the Appellant, it has been submitted by the Respondent that the impugned goods are general use parts as the said goods are used in multiple industries and are not manufactured solely or primarily for use in automobile industry. To support their above contention, they relied upon the invoice issued to M/s. Schneider Electric, which is a company in electronic goods sector.

DISCUSSIONS AND FINDINGS

9. We have carefully gone through the appeal memorandum encapsulating the facts of the case and the grounds of the appeal along with the written submissions made by the Respondent as well as the other relevant documents. We have also examined the impugned ruling passed by the MAAR, wherein it has been held that the subject goods, namely, 'Metal Nuts with metrical threads', 'Metal Nuts without metrical threads', and 'Metal Spring Nuts' should be classified under the Tariff Item 7318 16 00 and not under the Tariff Item 8708 99 00. The MAAR has based the aforesaid ruling on the ground that the subject goods are to be construed as "parts of general use" in terms of Note 2(a) to Section XV of the first Schedule to the Customs Tariff Act, 1975 which deals with the chapters containing "Base Metals and Articles of Base Metals" and therefore the subject goods, being parts of general use, would not be considered as "parts" or "parts and accessories", as specified under Section XVII of the first Schedule to the Customs Tariff Act, 1975, dealing with chapters containing "Vehicles, Aircraft, Vessels and Associated Transport Equipment", in terms of the Note 2(b) to the aforesaid Section XVII ibid., which stipulates that ***"the expressions "parts" and "parts and accessories" do not apply to the "parts of general use", as defined in Note 2 to Section XV, of base metal (Section XV)*** of the first Schedule to Customs Tariff Act, 1975, adopted *mutatis mutandis* under the CGST Act, 2017 in terms of the explanations (iii) and (iv) of the Notification No. 1/2017-C.T. (Rate), dated 28.06.2017.

10. We have also gone through the submissions made by the Appellant-Department, wherein the Appellant-Department has relied heavily on the Hon'ble Supreme Court Judgment in the case of ***G.S. International Ltd. Vs. Collector of Central Excise, Chandigarh,***

wherein the Hon'ble Supreme Court, in the identical issue as that of the case in hand, i.e., classification of the fasteners such as various types of Nuts, etc., laid down the test, which is to be applied for the classification of the various types of fasteners, such as the ones, i.e., Metal Nuts, which are the subject matter of the case at hand. The Hon'ble Apex Court, inter-alia, observed as under:

> ***For the purposes of classification under Chapter Heading 87.08, the test to be applied is: whether the goods are suitable for use solely or primarily with articles of Chapter Heading Nos. 87.01 to 87.05; if the answer is in the affirmative, the goods will be classifiable under Chapter Heading 87.08, but if the answer is in the negative, they would have to be classified under Chapter Heading No. 73.18. Having regard to the finding that the goods in question cannot but be regarded as parts of automobiles, it has to be held that they are suitable for use primarily with articles of Chapter Heading Nos. 87.01 to 87.05. It follows that the goods in question cannot be treated as falling under Chapter Heading No. 73.18 and that they can properly be classified under Chapter Heading No. 87.08 of the Central Excise Tariff Act, 1985."***

11. The Appellant has put forth the contention that the impugned goods are manufactured by the Respondent at the instance of their automobile manufacturing customer, such as M/s. Tata Motors Limited as per the specifications and requirements of their automobile customers. To support their contention, as an evidence, they have produced the impugned product's Drawings of the Respondent, which are eventually approved by their customer, i.e., M/s. Tata Motors Limited, before placing their Purchase Order. The Appellant has pointed out that the said Purchase Order includes the specifications details such as the Drawing Documents No., which is the same as the Part Number, the nomenclature adopted by the Respondent in their product design drawing, and thereby, contending that the drawing has been made by the Respondent keeping in mind the product's specifications/requirements provided by their customer, i.e., M/s. Tata Motors Limited, which is illustrated by the Part Number mentioned in the said drawing, which in turn is qualified by the code, i.e. TML(abbreviation of Tata Motors Limited).The Appellant has also stressed on the fact that the said Purchase Order placed by M/s. Tata Motors Limited to the Respondent also stipulates a condition, which reads as **"Sale of goods mentioned in the Purchase Order to Spare Market is strictly prohibited"** to contend that the goods, which are manufactured by the Respondent at the behest of their customers, are solely for use in the manufacture of the automobiles.

Based on the above proposition, the Appellant contended that the impugned goods, as per the principle laid down by the Hon'ble Supreme Court in the case of ***G.S. Auto International Ltd. (Supra)***, can aptly be classified as 'parts and accessories' of the Motor vehicles under the Chapter Heading 8708 and the same cannot be considered as 'parts of general use' under the Chapter Heading 7318.

12. The Appellant have also relied upon another Hon'ble Supreme Court Judgment in the case of ***Cast Metal Industries (P) Ltd. Versus Commissioner of C. Ex.-IV, Kolkata, 2015 (325) E.L.T. 471 (S.C.)***, wherein it has been held that *to determine the applicability of the item under particular head, the test of commercial identity of the goods would be the relevant test and not the functional test.*

13. On perusal of the impugned Advance Ruling, it is clearly seen that the MAAR has also recorded in its findings in para 5.1 of the said Advance Ruling that the *Applicant is engaged in the manufacture of, amongst others, industrial clip fasteners and prototyping assembly systems,* ***which are primarily used in automobiles***. The MAAR had based the aforesaid observation on the submission made by the Applicant-Respondent in their Advance Ruling application filed before MAAR. Thus, the Respondent themselves have revealed this fact before the MAAR, wherein they proclaimed that under pre-GST era, the impugned goods were being classified under the Chapter Heading 8708 which covers the parts or accessories of the motor vehicles falling under Chapter Heading ranging from 8701 to 8705. The aforesaid submission is also illustrated by the sample invoice produced by the Appellant- Department as well as the one produced by the Respondent. The said sample invoices have been issued by the Respondent to M/s. Tata Motors Limited and to M/s. Schneider Electric IT Business wherein the HSN code of the impugned product has been mentioned as 8708 9900 under the belief that the impugned products are parts of motor vehicles falling under the Chapter Heading from 8701 to 8705.

14. On careful consideration of the aforesaid submissions and the application of the ratios laid down under the case -laws cited by the Appellant in this regard, we are inclined to concur with the contentions put forth by the Appellant-Department to arrive at the conclusion that the impugned goods can clearly be construed as the 'parts and accessories' of the vehicles falling under the Chapter Headings from 8701 to 8705 and will merit classification under the Chapter Heading 8708, which covers the parts and accessories of the vehicles. Our observation is primarily attributed to the fact that the impugned products are manufactured by the Respondent as per the specifications/

requirements approved by the automobile manufacturer, which is illustrated by the descriptions contained in the sample Purchase Order, placed by M/s. Tata Motors Ltd. to the Respondent, which amongst other things, mentions the drawing document number and materials, approved by M/s. Tata Motors Ltd. The said drawing document, designed and made by the Respondent, also contains the part number of the automobile manufacturer, i.e., M/s. Tata Motors Ltd., rendering the said impugned product unique, in terms of its specifications, and materials used in the manufacture of the impugned goods which are identified by the material code of the impugned goods, and thereby lending support to our observation that the impugned goods have been manufactured at the behest of the automobile manufacturer as per the materials and design specifications of the motor vehicles to be manufactured by the automobile manufacturer, and the same is supplied solely or primarily to the said automobile manufacturer, which is also corroborated by the condition laid in the said sample Purchase Order placed by M/s. Tata Motors Ltd., which stipulates that Sale of goods mentioned in the Purchase Order to Spare Market is strictly prohibited. That said impugned goods are used primarily in the automobile industry, is an admitted fact, which is also noted by the MAAR in their findings of the impugned Advance Ruling.

15. Thus, it has been established beyond doubt that the impugned goods are suitable for use solely or primarily with articles of Chapter Heading Nos. 87.01 to 87.05, and therefore, applying the principle laid down by the Hon'ble Supreme Court in the case of G.S. Auto International Ltd. (Supra), it is manifest that the impugned products will be construed as parts of motor vehicles falling under Chapter Heading 87.01 to 87.05, and will merit consideration under the Tariff Item 8708 9900.

16. Our aforesaid observation in respect of the classification of the impugned goods also finds support from the Hon'ble Supreme Court Judgement in the case of ***Cast Metal Industries (P) Ltd.*** (Supra), relied by the Appellant- Department, wherein the Hon'ble Supreme Court has held that *to determine the applicability of the item under particular head, the test of commercial identity of the goods would be the relevant test and not the functional* test. Looking at the design and specification of the impugned goods, any person, in the common parlance, would not consider these goods as parts of general use, as the impugned goods are suitable for use solely or primarily in automobiles. Further since the impugned products are not available in the common market as per the terms and conditions laid under the Purchase Order of the said impugned goods, no question arises for these being the parts of general use. Thus, the commercial identity

of the impugned goods would be the parts of the motor vehicles as discussed above. Further, though there may be some ambiguities as far as the functions of these impugned goods are concerned, which are in the nature of fastening, thereby fomenting the temptation to classify these goods under Chapter Heading 73.18 by considering them as parts of general use, it is to be stated that doing so would not be legal as per the ratio laid down by Hon'ble Supreme Court in the aforesaid judgement, wherein it has been held by the Hon'ble Apex Court that the functional test for the classification of the goods is not the relevant test. Hence, the impugned goods will not be construed as 'parts of general use', and accordingly will not merit consideration under the Chapter Heading 73.18.

17. Now, coming to the contention put forth by the Respondent, wherein they claimed that impugned goods are supplied to the customers from the other sectors apart from the automobile sector, such as electronic goods sector, solar equipment manufacturing sector, etc., thereby, contending that the impugned goods can be construed as parts of general use as the same is not being solely used in the automotive industry. To support the aforesaid contention, they have produced sample invoice issued by them to M/s. Schneider Electric IT Business in respect of the impugned goods. Countering this submission of the Respondent, the Appellant- Department has averred that the Respondent are not supplying the identical goods, i.e. the goods, which are manufactured by the Respondent at the behest and instance of automobile customer, e.g. Tata Motors Ltd., to the customer from the other sector. To substantiate the said claim, the Appellant, referring to the invoices raised to M/s. Tata Motors Ltd and to M/s. Schneider Electric IT Business, have pointed out that specifications such as material code adopted by the Respondent for the impugned goods supplied to M/s. Tata Motors Ltd., the automobile manufacturer, and to M/s. Schneider Electric IT Business, a customer from other industry apart from the automobile industry are altogether different, which leads to the conclusion that the Respondent are not supplying the identical goods to customers from the other sectors.

18. On perusal of the above contentions made by the Appellant as well as the Respondent, we tend to agree with the contentions of the Department-Appellant in as much as the Respondent are not supplying the identical goods to the customers across all the sectors. The impugned goods are customized and tailor made for the automobile customers as per the specification approved by the automobile customers. Thus, the contention of the Respondent that the impugned goods are supplied to the customers across various

sectors, and thereby, the impugned goods are to be construed as parts of general use, and therefore, warranting classification of the impugned goods under the Chapter Heading 73.18, is devoid of any merit, and hence not tenable.

19. The Respondent have heavily relied on the Hon'ble Supreme Court Judgement in the case of Uni Products India Ltd. (Supra). In this regard, it is observed that the issue involved in the above- mentioned case was classification of 'Car Mats made of textile material', and the said decision in the said case was based on the facts that the 'Car Mats made of textile material' were specifically excluded from Chapter 87. Hence, in this regard, it is opined that the facts and circumstances of the case referred to by the Respondent is entirely different from those of the case at hand, which involves the classification of Metal Nuts and Metal Nuts are not categorically excluded under any HSN explanatory notes, the Section Notes or the Chapter Notes either, and therefore is clearly distinguishable.

20. As regards the reliance placed by the Respondent on the Note 2(a) to Section XV and Note 2(b) and Note 3 to Section XVII of the First Schedule to the Customs Tariff Act,1975 to contend that impugned goods are to be construed as the parts of general use, classifiable under the Chapter Heading 73.18, it is opined that since the Hon'ble Supreme Court Judgement in the case of G.S. Auto International LTD. (Supra) has laid down the principle for classification of the various fasteners including the impugned goods, i.e., Metal Nuts after considering all the explanatory notes, Section Notes and chapter notes. Therefore, we would not discuss the merits of the aforesaid contentions, made by the Respondent all over again.

21. As regards the reliance placed by the Respondent on the Hon'ble Supreme Court Judgement in the case of ***(i) India Aluminium Cables Ltd. Vs. Union of India [1985 (21) E.L.T. 3(S.C.)] and (ii) Commissioner of Central Excise Vs. Carrier Aircon Ltd. [2006(199) E.L.T. 577*** to contend that the classification of the product is not dependent on clearance of the product or on end use of the products when the same falls under a specific heading, it is opined that since facts of the case are dealt more specifically by the Hon'ble Supreme Court Judgement in the case of G.S. Auto International Ltd., the aforesaid cases cited by the Respondent are not relevant to the facts of the case at hand, and hence, not applicable.

22. Thus, in view of the above discussions and findings, we pass the following order:

ORDER

23. We, hereby, set aside the Advance Ruling No. GST-ARA-47/2019-20/B-33, dated 17.03.2020, pronounced by the MAAR. We further hold that the impugned goods, i.e., Metal Nuts with metrical threading, Metal Nuts without metrical threading, and Metal Spring Nuts, will be considered as parts of motor vehicles falling under Chapter Heading from 87.01 to 87.05, and accordingly will merit classification under the Tariff Item 8708 99 00, as purported by the Appellant. Thus, the subject Appeal filed by the Department is, hereby, allowed.

Sanjiv Kumar

(SANJEEV KUMAR)
MEMBER

26/11/2020

(RAKESH KUMAR SHARMA)
MEMBER

Copy to the:

1. **Appellant;**
2. **Respondent;**
3. **AAR, Maharashtra;**
4. **Pr. Chief Commissioner, CGST and C. Ex., Mumbai Zone;**
5. **Commissioner of State Tax, Maharashtra;**
6. **Commissioner, CGST & C.Ex, Pune-I Commissionerate;**
7. **Web Manager, WWW.GSTCOUNCIL.GOV.IN;**
8. **Office copy.**