


GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2022/05

(In Application No. Advance Ruling/SGST&CGST/2021/AR/40)

Dated: 07.03.2022

Name and address of the applicant	:	M/s Global Engineering Co. (Trade Name), M/s.Dilip Parsotambhai Siddhpura (Legal Name), Nr. Garden Devli Road, Kodinar, GirSomnath, Gujarat-362720
GSTIN of the applicant	:	24DJZPS7214H1ZK
Date of application	:	18/10/2021
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(b),(e)
Date of Personal Hearing	:	18/02/2022
Present for the applicant	:	Shri Sahir Pirani, CA

Brief Facts

M/s.Global Engineering (hereinafter referred to as the applicant) submits that it supplies Marine engines used by fisherman in fishing boats of HSN 8902.

2. The applicant submitted that Marine engine fall under HSN 8402 and 8407 and taxed at the rate of 28%. Further, applicant submitted that vide Circular No. 52/26/201-GST dated 9-8-18, it is clarified that supply of marine engine falling under HSN 8408 for fishing vessel attracts 5% GST.

3. The applicant is before us for determination of tax rate on marine engines supplied to fisherman for fishing purpose.

Question on which Advance Ruling sought

4. What GST rate to be charged on Marine engine falling under HSN 8402 and 8407, whether 28% or 5% (As per circular No. 52/26/201-GST dated 9-8-18).

Personal Hearing

5.1 Personal hearing granted on 18-2-22 was attended by Shri Sahir Pirani, CA and he reiterated the submission. He submitted that the applicant supplies marine engines to fisherman only and further take Certificate of Registry of Fishing Boat issued by Registrar of Fishing Vessel & Asstt. Director of Fisheries, Veraval and Certificate of Licence of a Fishing Boat from their customers as a proof that the customer has licence to operate fishing boat.

5.2 Shri Pirani informed that there is no BIS marking on the engines.

Additional Submission:

6. The applicant vide email dated 19-2-22 submitted declaration/undertaking that it supplies marine engines having Engine capacity of 9.9 HP and 15 HP to registered fisherman. Further, the applicant submitted sample copy of a Certificate of Registry of Fishing Boat issued by Registrar of Fishing Vessel & Asstt. Director of Fisheries **and Certificate of** Licence of a Fishing Boat, Department of Fisheries, Govt. of Gujarat **obtained from the customer.**

Revenue's submission

7. Revenue vide letter dated 27-12-21 issued by Assistant State Tax Officer, Ghatak-82, Amreli has submitted as follows,

“that they have visited the business place of Global Engineering and have filled spot visit check list. Further, it is submitted that applicant supplies marine engine only for the purpose of making fishing vessels. These engines are supplied to the final customers who are issued licence to operate the Fishery Boat of the retail buyers on the basis of a licence issued by the Fisheries department of the Govt. of Gujarat.”

FINDINGS

8. We have carefully considered the submissions before us.

9. We note the applicant's submission that it supplies Marine Engine of CTH8402 and 8407.

10. We do not find merit in applicant's submission that 8402 pertains to marine engines as Tariff 8402 pertains to Boilers.

11. We have noted that the applicant is conducting due diligence and is identifying its customer (KYC) to ensure that customer is registered with competent authority for operating fishing boat.

12. The relevant excerpts of CBIC Circular 52/26/2018-GST dated 9-8-2018 is reproduced as follows:

10.1 Applicability of GST on marine engine: Reference has been received seeking clarification regarding GST rates on Marine Engine. The fishing vessels are classifiable under heading 8902, and attract GST @ 5%, as per S. No. 247 of Schedule-I of the notification No. 1/2017-Central Tax (rate), dated 28-6-2017. Further, parts of goods of heading 8902, falling under any chapter also attracts GST rate of 5%, vide S. No. 252 of Schedule I of the said notification. The Marine engine for fishing vessel falling under Tariff item 8408 1093 of the Customs Tariff Act, 1975 would attract a GST rate of 5% by virtue of S. No. 252 of Schedule-I of the notification No. 1/2017-Central Tax (Rate), dated 28-6-2017.

13. We refer to Sr. No. 252 of Notification No. 1/2017-CT (R) dated 28-6-2017, read as follows:

Schedule-II 2.5%(CGST)

252.	Any chapter	Parts of goods of headings 8901, 8902 , 8904, 8905, 8906, 8907
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14. We, thereby, pass the Ruling,

RULING

1. The GST rate on Marine engines is determinable on case to case basis.
2. In cases where the applicant has conducted due diligence with KYC norms of customer such as customer in possession of certificate of registry of fishing boat/ certificate of licence of fishing boat, in such cases marine engine supplied will be part of fishing vessel, and thereby GST rate is 5%.
3. In other cases, GST rate is 28%.

(ATUL MEHTA)
MEMBER (S)

(ARUN RICHARD)
MEMBER (C)

Place: Ahmedabad
Date: 07.03.2022