

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/57/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/24)

Date: 30.07.2020

Name and address of the applicant	:	M/s. Dyna Automation Private Limited, Block-A-1501, Mondeal Heights, Nr. Hotel Novotel, S.G. Highway, Ahmedabad, Gujarat
GSTIN/ User Id of the applicant	:	24AAACD5318D1Z8
Date of application	:	22.03.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) Classification of goods and/or services or both. (e) Determination of the liability to pay tax on any goods or services or both:
Date of Personal Hearing	:	02.07.2020 (Through Video Conferencing)
Present for the applicant	:	Shri Nilesh V Suchak

M/s. Dyna Automation Private Limited, Block-A-1501, Mondeal Heights, Nr. Hotel Novotel, S.G. Highway, Ahmedabad, Gujarat having a GSTIN: 24AAACD5318D1Z8, is a company filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

2. M/s. Dyna Automation Private Limited an applicant intends to assemble or supply Hybrid Hydraulic Servo System. Hybrid Hydraulic Servo System is used as part of Plastic Injection moulding machine or rubber injection moulding machine or as machine tools in hydraulic press or in compression moulding press or in deep drawing press or as a part of other machines. Hybrid Hydraulic Servo System is prepared by assembling or joining some or all of these items following items or some more items, where required. HSN codes of usually used in preparing Hybrid Hydraulic Servo System is given as under for reference :

Sr. No.	Item Description	HSN Code
1.	Servo Motor	85015290
2.	Hydraulic Pump	84136090
3.	Electric Invertor	85044010
4.	Input line Choke	85045010
5.	EMI Filter	85322200
6.	Supply Cable	85444999
7.	Feed Back Couple	85444999
8.	Brake Resistor	85332119
9.	Coupling	84836010
10	L-type Bracket/Bell housing	84779000
11	Inlet/outlet Flange	84779000
12	Outlet Manifold	84818030
13	Pressure Transducer	90262000

3. The applicant submitted that Hybrid Hydraulic Servo System is prepared by assembling and joining items like Servo Motor, Hydraulic Pump, Electrical Invertor, Input Line Choke, EMI Filter, Supply Cable, Feed Back Couple, Brake Resistor, coupling, L-type Bracket/Bell housing, inlet/outlet flange, outlet manifold, pressure transducer etc. Hybrid Hydraulic Servo System so assembled or joined or prepared can be used as a part in the following amongst other machines.

1. Plastic Injection Moulding Machine
2. Rubber Injection Moulding Machine
3. Machine Tools in Compression Moulding Press
4. The applicant further submitted that
5. Machine Tools in Deep Drawing Press

Further, submitted that above stated machine used Hybrid Hydraulic Servo System as such Servo System or Drive give right solution for Servo pump control, providing precise pressure and flow control and avoiding the energy waste thus creating added value for customers in terms of energy efficiency and higher mould quality.

4. Hybrid Hydraulic Servo System shall be sold or supplied by assembling or joining various parts as stated above and shall be used as a part of Machines. They also supply various parts of such Hybrid Hydraulic Servo System separately when required by their customer and those parts are classified as per HSN Code applicable to respective parts as stated above.

However, when they intend to supply Hybrid Hydraulic Servo System as one part of machine, they intend to get clear under guidance from the department as regards the correct classification and rate of tax under GST law.

5. The applicant submitted that in GST law to determine rate of GST applicable thereon one has to look at Not. No. 01/2017-CT (Rate) dated 28.06.2017. Explanation (iii) to said Not. provides that, “Tariff item”, “Sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975.

6. The applicant submitted that Hybrid Hydraulic Servo System is to be used by their customers as part of some machine. Chapter 84 of the First Schedule to the Custom Tariff Act, 1975 includes Nuclear reactors, boilers, machinery and mechanical appliances and parts thereof. Tariff item covers 8479, “Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter”. Tariff item 847990 includes Parts of various machines or machineries.

7. Accordingly, applicant sought Advance Ruling on the following question:
1. What is the classification for Hybrid Hydraulic Servo System which is prepared by assembling various parts and is used as part in different type of machines?
 2. What will be the applicable tax rate on Hybrid Hydraulic Servo System?

Applicant’s Interpretation of Law/Taxation under GST Regime

8. The applicant submitted that they are of bonafide belief that Hybrid Hydraulic Servo System should be classified under Tariff Item 84799090 of the First Schedule to the Custom Tariff Act, 1975 as it is used as a part of machines or machinery.

9. The applicant further submitted that their bonafide belief is that the total rate of GST for Hybrid Hydraulic Servo System should be 18% considering the following entries in Schedule III to Not. No. 01/2017-CT (Rate) dated 28.06.2017 that attracts 9% rate of CGST and 9% SGST. Relevant extract from Not. No. 01/2017-CT (Rate) dated 28.06.2017 as under:

SCHEDULE III

Sl. No.	Chapter/Heading/Sib-heading/Tariff item	Description of Goods
366	8479	Machines and mechanical appliances having

		individual functions, not specified or included elsewhere in this Chapter [other than Composting Machines]
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Personal Hearing

10. Shri Nilesh Schuchak, Chartered Accountant duly authorised representative of the company appeared and reiterated the submission made in the application.

Findings and Discussion

11. We have considered the submissions made by the Applicant in their application for advance ruling. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant’s interpretation of law. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 GGST Act.

12. We observe that applicant is engaged in manufacture and supply of Hybrid Hydraulic Servo System. Hybrid Hydraulic Servo System is used as part of Plastic Injection moulding machine or rubber injection moulding machine or as machine tools in hydraulic press or in compression moulding press or in deep drawing press or as a part of other machines. Hybrid Hydraulic Servo System is prepared by assembling or joining some or all of following these items or some more items, where required:

Sr. No.	Item Description	HSN Code
1.	Servo Motor	85015290
2.	Hydraulic Pump	84136090
3.	Electric Invertor	85044010
4.	Input line Choke	85045010
5.	EMI Filter	85322200
6.	Supply Cable	85444999
7.	Feed Back Couple	85444999
8.	Brake Resistor	85332119
9.	Coupling	84836010
10	L-type Bracket/Bell housing	84779000
11	Inlet/outlet Flange	84779000

12	Outlet Manifold	84818030
13	Pressure Transducer	90262000

13. The applicant submitted that Hybrid Hydraulic Servo System is used in the machine to give right solution for Servo pump control, providing precise pressure and flow control and avoiding the energy waste.

14.1 The issue involved in this case pertains to classification of the product 'Hybrid Hydraulic Servo System' i.e. whether the said product falls under Chapter Heading 8479 or any other suitable Chapter Heading of the Customs Tariff Act, 1975. On the basis of the classification of the said product, it will be leviable to appropriate rate of Goods and Services Tax prescribed under Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 issued under the Central Goods and Services Tax Act, 2017 (herein after referred to as the 'CGST Act, 2017') and corresponding Notification issued under the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'GGST Act, 2017') or the Integrated Goods and Services Tax Act, 2017.

14.2 It is observed that the Explanation (iii) and (iv) of the Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 provides as follows :-

"Explanation. - For the purposes of this notification, -

- (i)*
- (ii)*
- (iii) "Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).*
- (iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification."*

14.3 Further, Hon'ble Supreme Court in the case of L.M.L. Ltd. v. Commissioner of Customs [Civil Appeal No. 3764 of 2003, decided on 21-9-2010 reported at 2010 (258) E.L.T. 321 (S.C.)] has held as follows :-

"12. In Collector of Central Excise, Shillong v. Wood Crafts Products Ltd. reported in (1995) 3 SCC 454, it was held by this Court that as expressly stated in the statements of objects and reasons of the Central Excise Tariff Act, 1985, the Central Excise Tariffs are based on the Harmonious System of Nomenclature (HSN) and the internationally accepted nomenclature was taken into account to reduce disputes on account of tariff classification. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the Harmonious System of Nomenclature (HSN). Although, the decision in the case of Woodcraft Products (supra) dealt with the interpretation of the provisions of the Central Excise Tariff there can be no doubt that the HSN Explanatory Notes are a dependable guide even while interpreting the Customs Tariff."

15. Note 2 of Section XVI of the Customs Tariff Act, 1975 provides as follows :-

“2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules :

- (a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;*
- (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;*
- (c) All other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.”*

15.1 It is observed that in the application for advance ruling, the applicant has submitted that product viz. ‘Hybrid Hydraulic Servo System’ used as parts of various machine like Plastic Injection moulding machine or rubber injection moulding machine or as machine tools in hydraulic press or in compression moulding press or in deep drawing press or as a part of other machines.

16. General Note of Parts of Section XVI of Harmonised System of Nomenclature is read as under:

In general parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43) or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions mentioned in Part (I) above. Separate headings are, however, provided for:

- (A) Parts of the engines of heading 84.07 or 84.08 (heading 84.09)*
- (B) Parts of the machinery of heading 84.25 to 84.30 (heading 84.31)*
- (C) Parts of the textile machine of heading 84.44 to 84.47 (heading 84.48)*
- (D) Parts of the machine tools of heading 84.56 to 84.65 (heading 84.66)*
- (E) Parts of the office machine of heading 84.69 to 84.72 (heading 84.73)*
- (F) Parts of the machine of heading 85.01 or 85.02 (heading 85.03)*
- (G) Parts of the apparatus of heading 85.19 or 85.21 (heading 85.22)*
- (H) Parts of the apparatus of heading 85.25 to 85.28 (heading 85.29)*
- (I) Parts of the apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38)*

*The above rules do not apply to parts which in themselves constitute an article covered by a heading of this Section **(other than headings 84.87***

and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine.

Other parts which are recognizable as such but are not suitable for use solely or principally with a particular machine or class of machine (i.e. which may be common to a number of machines falling in different headings), are classified in heading 84.87 (if not electrical) or in heading 85.48 (if electrical), unless they are excluded by the provisions set out above.

The above provisions for the classification of parts do not apply to parts of the goods falling in heading 84.84 (gasket etc.), 85.44 (insulated wire), 85.45 (electrical carbons), 85.46 (insulators) or 85.47 (conduit tubing); in general, such parts are classified in the appropriate materials chapter.

17. In view of the above discussion of Note 2 of Section XVI of the Customs Tariff Act, 1975 and General Note of Parts of Section XVI of Harmonised System of Nomenclature, it can be seen that parts suitable for use of any particular machine or class of machine would be classified in the same heading of the particular machine or class of machine. Further, parts which can be used as such and are not suitable for any particular machine or class of machine and may be common to a number of machine falling in different headings are to be classified in heading 84.87 (if not electrical) or in heading 85.48 (if electrical).

17.1 As per Harmonised System of Nomenclature, Chapter Heading 84.87 and 85.48 is read as under:

84.87- Machinery parts not containing electrical connectors, insulators, coils, contacts or other electrical features, not specified or included elsewhere in this chapter.

8487.90- Other

This heading covers non-electrical parts not classified elsewhere.

85.48– Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included elsewhere in this chapter.

8548.10 Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators

8548.90- Other

18. The applicant has contended that the product viz. “Hybrid Hydraulic Servo System” may merit classification under 8479 with description “Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter [other than Composting Machines]”.

19 We find that Tariff Heading 8479 of custom Tariff Act, 1975 covers the Machine and Mechanical appliances having individual functions, not specified or included elsewhere in this chapter. Tariff Heading 8479 as per Harmonised System of Nomenclature is reproduced as under:

8479 *MACHINES AND MECHANICAL APPLIANCES HAVING INDIVIDUAL FUNCTIONS, NOT SPECIFIED OR INCLUDED ELSEWHERE IN THIS CHAPTER*

8479 10 Machinery for public works, building or the like

847920 Machinery for the extraction or preparation of animal or fixed vegetable fats or oils

8479 30 Presses for the manufacture of particle board or fibre building board of wood or other ligneous materials and other machinery for treating wood or cork

8479 40 - Rope or cable-making machines

8479 50 - Industrial robots, not elsewhere specified or included

8479 60 - Evaporative air coolers

Other machines and mechanical appliances:

8479 81 -- For treating metal, including electric wire coil-winders

8479 82 -- Mixing, kneading, crushing, grinding, screening, homogenising, emulsifying or stirring machines, sifting

8479.89 –Other

8479.90 – Parts

The machinery of this heading is distinguished from the parts of machinery, etc. that fall to be classified in accordance with the general provisions concerning parts, by the fact that it has individual functions.

For this purpose the following are to be regarded as having “individual functions”:

(A) Mechanical devices, with or without motors or other driving forces, whose function can be performed distinctly from and independently of any other machine or appliances.

(B) Mechanical devices which cannot perform their function unless they are mounted on another machine or appliances, or are incorporated in a more complex entity, provided that this function :

- (i) is distinct from that which is performed by the machine or appliance whereon they are to be mounted, or by the entity wherein they are to be incorporated, and*
- (ii) does not play an integral and inseparable part in the operation of such machine, appliances or entity.*

20. During the personal hearing, the applicant was requested to submit the usages of the product viz. “Hybrid Hydraulic Servo System” in the machinery and catalogue of the said product. The applicant has submitted the catalogue

of the product, wherein design and scientific parameter of manufacture of the product is given. However, they did not mention the usage of the said product in the different type of machines or class of machines. Further, it is seen that applicant in the application has submitted that, *“Hybrid Hydraulic Servo System” as such Servo System or Drive give right solution for Servo pump control, providing precise pressure and flow control and avoiding the energy waste thus creating added value for customers in terms of energy efficiency and higher mould quality*”. Hence, it appears that the product does not have any individual functions or it can be stated that the said product cannot perform itself which is the prime condition for classification under Heading 8479 of Custom Tariff Act, 1965. Therefore, the said product cannot be classified in the Chapter heading of 8479 of Customs Tariff Act, 1975.

21. In view of the above discussion, we rule that the product viz. *Hybrid Hydraulic Servo System*” merits classification in terms of Note 2 of Section XVI of the Customs Tariff Act, 1975 and General Note of Parts of Section XVI of Harmonised System of Nomenclature. Accordingly, the rate of GST of the said product would be determined according to the classification of the product.

22. In view of the foregoing, we rule as follows:

RULING

1. What is the classification for Hybrid Hydraulic Servo System which is prepared by assembling various parts and is used as part in different type of machines?

Ans. *“Hybrid Hydraulic Servo System”* merits classification in terms of Note 2 of Section XVI of the Customs Tariff Act, 1975 and General Note of Parts of Section XVI of Harmonised System of Nomenclature.

2. What will be the applicable tax rate on Hybrid Hydraulic Servo System?

Ans. The GST rate would be leviable on the basis of classification of the product, under Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017.

(SANJAY SAXENA)
MEMBER

(MOHIT AGRAWAL)
MEMBER

Place: Ahmedabad

Date: 30.07.2020.