


GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/72/2020
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/47)
 Date: 17.09.2020

Name and address of the applicant	:	M/s Air Control and Chemical Engineering Co. Ltd, Barejadi, W. Railway, Post-Nandej, Gujarat—382 435
GSTIN of the applicant	:	24AABCA6009R1ZJ
Date of application	:	28.08.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) Classification of any goods or services or both. (b) Applicability of a notification issued under the provisions of Act. (c) Determination of liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	17.08.2020 (through Video Conferencing)
Present for the applicant	:	CA Neha Vatsal Shah

BRIEF FACTS

The applicant is a public limited company working under the Trade Name “Air Control and Chemical Engineering Co. Limited”, more popularly known as “ACCEL”, having Factory at Barejadi, Gujarat. They are registered under GST Act, 2017. They are engaged in the manufacture and supply of various Refrigeration Compressors, Refrigeration Compressors’ spares, Industrial Fans and Blowers, Industrial Fans’ spares, Refrigeration systems and HVAC equipment, as mentioned below:

ANNEXURE-I

S. No.	Description	HN Code	GST Rate
1	ACCEL Make Refrigeration Compressors	8414	18%
2	ACCEL Make Refrigeration Compressor Spares	8414	18%
3	ACCEL Make Industrial Fans and Blowers	8414	18%
4	ACCEL Make Industrial Fan Spares	8414	18%
5	ACCEL Make Refrigeration System	8414	18%
6	ACCEL Make Refrigeration System Spares	8414	18%
7	ACCEL Make Air Cooling Unit	8419	18%
8	ACCEL Make Air Cooling Unit Spares	8419	18%
9	ACCEL Make Air Conditioning System	8415	28%
10	ACCEL Make Air Conditioning System Spares	8415	28%

11	Works Contract of Cold Storage Plant with installation & Commissioning	9954	12%
12	Goods supply to Navy (Other Vessels) vide Notification No.01/2017-IT (Rate), S. No. 252 (Any Chapter) Part of Goods of Heading 8906	8906	5%
13	Service of Maintenance & Repair of ACCEL Made Items	9987	18%

2. The applicant further submitted that they also provide works contract of Cold Storage Plant with installation & Commissioning. Further, the applicant is also engaged in supplying Air Conditioning Plants on board to the Indian Navy (Other Vessels), vide Notification No.01/2017-IT (Rate), S. No. 252 (Any Chapter)-Part of Goods of Heading 8906. The applicant also undertakes the repair and maintenance of various “ACCEL” made items as above.

3. The applicant has received an enquiry from the Naval Dockyard (Vishakhapatnam) for composite supply entailing “Supply, Testing and Commissioning of 160TR Chilled Water Plant”.

3.1 The applicant further submitted that Naval Dockyard (Visakhapatnam) is Indian Naval Ship Repair Organisation. They have placed a Tender for supply of “Trailer Mounted 160TR Chilled Water Plant”. The item is a Chilled Water Plant of 160 TR capacity which is mounted on movable trailer. This Chilled Water Plant is positioned on jetty near ship and used for supplying chilled water through flexible insulated hoses to Ships under refit i.e. ships under repair whose main engine, AC plant are non-operational or cannot be used. The chilled water is further circulated on-board ship to provide control temperature for electronics and human comfort. This plant being mounted on trailer is moved from one ship to another depending on the requirement.

3.2 The “Trailer Mounted 160TR Chilled Water Plant” to be commissioned at the Naval Dockyard shall constitute the equipments, as under:

- (a) Semi Hermetic Sealed Screw Type Compressor;
- (b) Air Cooled Finned tube with Axial type Fan Condenser;
- (c) Shell & Tube Type Evaporator;
- (d) Centrifugal Pump with motor for chilled water;
- (e) Electrical Panel for Starting & Controls of AC Plant;
- (f) Chilled Water piping/Hoses;
- (g) Flat Bed mobile trolley on which the Chilled water plant is mounted.

4. The applicant sought advance ruling with respect to GST rate applicable on said “Supply, testing and Commissioning of TRAILER MOUNTED 160TR

CHILLED WATER PLANT”, since the GST rate for HSN Code 8415 under which the Air Conditioning Plants are categorised is 28%.

5. However, if the benefit of Notification No. 01/2017-IT (Rate), S. No. 252 (Any Chapter) part of Goods of Heading 8906 is taken, then such supplies to Naval Dockyard shall be classified at GST Rate @ 5% under HSN 8906.

6. Further, the applicant considers it to be a composite supply with Principal supply, as Supply of Testing and Commissioning of Chilled Water Plant and incidental supply as supply of Refrigeration equipment, the GST @18% is applicable on supply of services under SAC Code: 9987.

7. In above backdrops, the applicant has sought for an advance ruling in respect of the following questions:

Question-1:Clarification in details is sought with regard to the GST rate applicable regarding the “Supply, Testing and Commissioning of 160 TR Chilled Water Plant to Naval Dockyard (Vishakhapatnam).

Question-2:Clarification in details is sought with regard to the HSN/SAC code applicable regarding the “Supply, Testing and Commissioning of 160 TR Chilled Water Plant” to Naval Dockyard (Vishakhapatnam).

Question-3:Clarification is also sought on applicability of the Notification No. 01/2017-IT (Rate), S. No. 252 (Any Chapter) whether Chillar Water Plant may be categorised as “Any Parts” and subject to GST @ 5% under HSN 8906.

8. Further, the applicant, vide their letter dated 27.07.2020, submitted the additional submission, as below:

I. Facts of the Case:

- (i) The applicant sought Advance Ruling in respect of the following question as below:

“Whether Water Chiller Plants and other Refrigeration Systems and Air Conditioning Systems supplied by the Applicant intended for use in relation to the Warships, Vessels and Submarines meant for Indian Navy and Shipbuilders, attract 5% GST”

- (ii) The applicant also received Works Contract of Cold Storage Plant with installation and commissioning.
- (iii) Further, subject matter of present application relates to supplies effected against purchase order received from the Indian Navy.

- (iv) Naval Dockyard (Vishakhapatnam) is Indian Naval Ship Repair Organisation. They have placed a Tender for “Trailer Mounted 160 TR Chilled Water Plant”.
- (v) The applicant has received an enquiry from Naval Dockyard (Vishakhapatnam) for composite supply entailing “Supply, Testing and Commissioning of 160TR Chilled Water Plant”.
- (vi) The Purchase Order placed by the customer is for Supply of 160TR Chilled Water Plants. The item is an Air Conditioning Plant of 160 TR capacity which is mounted on movable trailer. This Air Conditioning Plant is positioned on Jetty near ship and used for supplying chilled water through flexible insulated hoses to Ships under refit i.e. ships under repair whose main engine, AC plant are non-operational or cannot be used. The chilled water is further circulated on board ship to provide control temperature for electronics and human comfort. This plant being mounted on trailer is moved from one ship to another depending on the requirement. The equipments supplied by the applicant are primarily used in the Naval Dockyard meant to maintain and control the temperature and humidity in the Naval Ships stationed in the Dockyard.
- (vii) The “Trailer Mounted 160TR Chilled Water Plant” to be commissioned at the Naval Dockyard is not a separate product but comprises of various parts/assemblies. It shall constitute the equipments as under:
 - (a) Semi Hermetic Sealed Screw Type Compressor;
 - (b) Air Cooled Finned tube with Axial type Fan Condenser;
 - (c) Shell & Tube Type Evaporator;
 - (d) Centrifugal Pump with motor for chilled water;
 - (e) Electrical Panel for Starting & Controls of AC Plant;
 - (f) Chilled Water piping/Hoses;
 - (g) Flat Bed mobile trolley on which the Chilled water plant is mounted.
- (viii) The applicant submitted the copy of Purchase Order received from the Naval Dockyard (Vishakhapatnam) where the applicant is identified as the Seller party and Government of India is identified as the Buyer Party and total value of Purchase Order is INR 97,60,538/-. The Price Breakup for the plant as annexed to the Purchase Order would show that the supply includes various items such as Compressor, Evaporator, Centrifugal Pump, Hoses, Trolley etc.

- (ix) Further to submit that apart from the supply of the Water Chiller Plant, the contract also requires the applicant to provide services of “Testing & Commissioning” of the plant at the Dockyard. The plant being installed shall be mobile and movable since it will be installed on a Trailer to enable movement of same from one ship to another.
- (x) The applicant further submitted that the supply made of the Water Chiller Plant is essential for smooth operations of stationed Naval Ships since the engines and machines installed in the Naval ships need to be maintained under a fixed temperature to provide efficacy in operation and also prevent damage due to overheating.
- (xi) In the light of facts as given above, supplies made by applicant to Naval Dockyard for use in Warship, Vessels and Submarines being used by the Indian Navy, the applicant is required to determine the classification of the subject supplies and rate of tax applicable for the same.
- (xii) As per Section 2(30) of the CGST Act, 2017, “Composite Supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply and as per Section 2(74) of the CGST Act, 2017, “a Mixed Supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.
- (xiii) The Supply under question being “Supply, installation and Commissioning of Water Chiller Water” as per the Purchase Order, consists of a combination of goods and services with supply of goods apparently being the principal supply.
- (xiv) The applicant further submitted that the entry 252 reads as under:

<i>S. No.</i>	<i>Chapter/Heading/Sub-heading/ Tariff item</i>	<i>Description of Goods</i>
252	<i>Any Chapter</i>	<i>Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907</i>

It is also essential to take into consideration the entries preceding the above in the same Schedule I to appreciate the Scheme of placing the given group of items falling under Chapter 89 in the 5% GST category.

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
246	8901	<i>Cruise ships, excursion boats, ferry-boats, cargo ships, barges and similar vessels for the transport of persons or goods</i>
247	8902	<i>Fishing vessels; factory ships and other vessels for processing or preserving fishery products</i>
248	8904	<i>Tugs and pusher craft</i>
249	8905	<i>Light-vessels, fire-floats, dredgers, floating cranes and other vessels the navigability of which is subsidiary to their main function; floating docks; floating or submersible drilling or production platforms</i>
250	8906	<i>Other vessels, including warships and lifeboats other than rowing boats</i>
I t 251	8907	<i>Other floating structures (for example, rafts, tanks, coffer-dams, landing-stages, buoys and beacons)</i>

can be noticed that Heading 8903 relating to “yachts and other vessels for pleasure and sports; rowing boats and canoes” are kept out of the above list apparently considering the same as luxury/sin goods.

II. APPLICANT’S INTERPRETATION OF LAW AND/ OR FACTS:

8.1 The applicant further submitted that the applicant is of understanding that the subject supplies are covered by S. No. 252 of Schedule I of the Notification No. 1/2017-Central Tax (Rate) for the following reasons:

- (i) “Part of ships” do not have separate heading in the Tariff:
 - (a) Explanation (iii) to Notification No.1/2017-IGST provides that the “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).
 - (b) Further, Explanation (iv) provides that 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.
 - (c) Section XVII of the First Schedule to the Customs Tariff Act, 1975, relates to “Vehicles, Aircrafts, Vessels and Associated Transport Equipment” including four chapters namely 86 (Railways), 87 (Vehicles Other than Railways), 88(Aircrafts) and 89 (Vessels).

- (d) While other three chapters have separate heading for parts and accessories (8607, 8708, 8714 & 8803). Chapter 89 does not have separate heading for parts and accessories. The heading in the Chapter, from 8901 to 8908, do not includes sub-headings/ items for 'parts and accessories'.
- (e) The above observation further is reinforces by Note No. 3 to Section XVII which states that reference in Chapter 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. Notably, the note does not mention about Chapter 89 for the obvious reason that Chapter 89 has no reference to 'Parts and Accessories'.
- (f) On the other hand, Note No.2 in the Section provides that 'the expression "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) -----;
 - (b) parts of general use, as defined in note 2 to Section XV-----;
 - (c) articles of Chapter 82 (tools);
 - (d) -----;
 - (e) machines or apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section; articles of heading 8481 or 8482-----;
 - (f) electrical machinery or equipment (Chapter 85);
 - (g) -----;
- (g) According to clause (m) of note 1 in Section XVI (Machinery and Mechanical appliances; electricals equipment etc. covering Chapter 84, 86 & 85), Section XVI does not cover Articles of Section XVII.
- (h) In as much as there is no specific reference to 'parts' or 'parts and accessories' in Chapter 89, the exclusion in Section Note 2 of Section XVII do not apply to 'parts' of goods falling under heading 8901 to 8908. Similarly, the exclusions from Section XVI in terms of Note 1-clause (m) would also not apply to parts of boats, ships etc. as there is no classification for the same in Section XVII.
- (i) Therefore, the applicant claims that whenever there is reference to 'parts' of ships, recourse has to be had to the General Rules of Interpretation of the Tariff and each individual component of each assembly has to be identified and classified in the appropriate heading in the Tariff and such exercise could lead to classification under Chapter 39 (plastics), Chapter 40 (rubber), Chapter 44(wood), Chapters 50 to 63 (textile articles) or Section XV (Base metals), Section XVI or Chapter 90 etc.
- (j) The applicant states that the explanatory notes to HSN clarifies the above aspect as under:

“Contrary to the provisions related to the transport equipment falling in other Chapters of Section XVII, this Chapter excludes all

separately presented parts (other than hulls) and accessories of vessels or floating structures, even if they are clearly identifiable as such.

Such parts and accessories are classified in the appropriate headings elsewhere in the Nomenclature, for example:

- (1) The parts and accessories specified in Note 2 to Section XVII;
- (2) Wooden oars and paddles (heading 44.21);
- (3) Ropes and Cables of Textile Materials (heading 56.07);
- (4) Sails (heading 6306);
- (5) Masts, hatchways, gangways, rails and bulkheads for ships or boats and parts of hulls, having the character of metal structures of heading 7308;
- (6) Cables of iron or steel (heading 7312);
- (7) Anchors of iron or steel (heading 7316);
- (8) Propellers and paddle wheels (heading 8487);
- (9) Rudders (heading 4421, 7325, 7326, etc.) and other steering or rubber equipment for ships or boats (heading 8479).

(k) Hence, the classification of “parts” of ships, particularly when they are cleared in the form of assemblies/systems as in the case of supplies to Shipyards/ Indian Navy by the applicant is close to impossibility. Even if so done, it would be difficult to identify the ‘principal’ amongst the various goods to adopt the rate of tax as a composite supply or to determine the goods attracting the highest rate as mixed supply.

8.2 In absence of separate heading of classification for parts of ships, the Expression ‘Any chapter’ in column 2 of the Schedule assumes significance:

- (a) The applicant further submitted that the Column 2 of the Schedules in subject Notifications(s) refers to Chapter/Heading/Sub-heading/Tariff Item”. Whereas for every S. No. the respective Chapter/Heading number has been mentioned, in respect of Sl. No.252, in the said Column 2, the expression “Any Chapter” is used which signifies that irrespective of classification of the particular product/item/goods, the rate of tax applicable would be 5% only.
- (b) The applicant further submitted that under Customs or in the earlier tax regime (i.e. under Central Excise) also, exemption to parts etc. of boats, ships is/was provided.
- (c) Notification No. 12/2012-Cus dated 17.03.2012 contained the following entry:

469	Any Chapter	Raw materials and parts, for use in the manufacture of goods falling under heading 8901,8902,8904,8905 (except sub-heading 890520) or 8906, in accordance with the provisions of section 65 of the Customs Act, 1962(52 of 1962)	NIL	NIL	83
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(d) The above entry was inserted w.e.f. 24.11.2015. Further, the above Notification has, since, been superceded by Notification No.50/2017 dated 30.06.2017, however, the above exemption entry continues under Sl. No. 559 in the new Notification.

(e) Similarly, Notification No. 12/2012-CE also exempted 'raw materials' and parts of ships etc. The relevant entry 306C, which was inserted by Notification No. 44/2015-CE dated 24.11.2015 reads as under:

306C	Any Chapter	<i>Raw materials and parts, for use in the manufacture of goods falling under heading/tariff item 8901, 8902, 8904 00 00, 8905 (except tariff item 8905 20 00) or 8906..</i>
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(f) Notification No.64/95-CE included the following exemption:

21	All Goods	<i>If,- (a) the said goods are supplied for use in construction of warships of the Indian Navy or Coast Guard; and before clearance of the said goods, a certificate from an officer not below the rank of a Rear Admiral of the Indian Navy or Coast Guard or Director General of Coast Guard or any other officer of the Indian Navy or Coast Guard equivalent to the Joint Secretary to the Government of India, to the effect that the said goods are intended for the said use, is produced to the proper officer.</i>
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(g) Further, Notification No.12/2012-Cus also had the following entry:

459	Any Chapter	<i>Capital goods and spares thereof, raw materials, parts, material handling equipment and consumables, for repairs of ocean going vessel by a ship repair unit.</i>
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(h) Notification No. 82/84-CE exempted all capital goods, components and raw materials falling under the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) and cleared for repair of goods falling under Heading Nos.8901, 8902, 8904 and 8905 (excluding floating or submersible drilling or production platforms) and 8906, by ship repair units from whole of excise duty.

(i) From the above, the applicant states that it can be seen that whenever exemption is provided to goods meant for ships, etc. falling under Chapter 89, either for manufacture of ships or for repairs or for specified purposes such as under by Indian Navy, such exemption has

been provided to goods falling under any Chapter of the respective Tariff (Customs or Central Excise).

- (j) The applicant has relied on the following decisions wherein it has been held that once the goods are supplied for specified use, such as construction of warship and have been certified to be so used by the Naval Authorities, the exemption is applicable irrespective of the classification of goods:

(a) Brahmos Aerospace Pvt. Ltd. v/s CC, CE86ST, Hyderabad-II-2014 (307) ELT 795-Tri;

(b) GE Industrial India Ltd. v/s CCE, Cus 86 CE, Bangalore-1-2016 (335) ELT 103 (Tri Bang).

- (k) The applicant submitted that all the systems/ assemblies supplied/ to be supplied by them are meant for use in warships, vessels and submarines as evidenced by the Purchase Orders. Hence, irrespective of the classification of the respective goods, the rate of tax applicable would be 5% in terms of Sl. No. 252 of Schedule I.
- (l) The applicant submitted that the supplies of the applicant are used only for the purposes of National Defence and this being a priority sector, a beneficial interpretation of the entries would be in consonance to the legislative intent.

8.3 The expression ‘parts’ in the entry has a wide application:

(a) The applicant submitted that each of systems are essential for the overall functioning of the Warships, Vessels and Submarines and, therefore, the expression “parts” in the subject entry of the Notification(s) should be construed to include all such systems/assemblies. To buttress this submission, reliance is placed on the following decisions in the context of Notification/tariff entries under the Customs/ Central Excise Law:

(i) Mehra Brothers v. Joint Commercial Officer-[1991(51) ELT173(SC)]- held that *a part or accessory need not necessarily mean an item which is essential for the effective use of a vehicle but also would include any item which adds to the comfort or enjoyment of the vehicle.*

“Having given our anxious consideration, with respect, we are of the considered view that the test laid down by the Karnataka High Court that the accessories as a part must contribute for convenience or effectiveness in the use of the car as a whole is not a correct test. In our view, the correct test would be whether the article or articles in question would be an adjunct or an accompaniment or an addition for the convenient use of another part of the vehicle or a supplementary or secondary to the main or primary importance. Whether an article or part is an accessory cannot be decided with reference to its necessity to its effective use of the vehicle as a whole. General adaptability may be relevant but not by itself conclusive-----.”

(b) In the case of systems supplied by the applicant, the systems are a combination of parts as explained earlier, and are essential for the functioning of the warship, vessels and submarines and, hence, would qualify as parts of the ships.

8.4 The GST Notification is applicable so long as the goods are used in warships, vessels and submarines, whether for construction or repair or replacements:

- (a) The applicant submitted that they are of the view that the rate of 5% GST in terms of Sl. No.252 of Schedule I would apply whenever goods falling under any chapter are supplied, either as individual parts/components or as system/assemblies so long as they are meant for use in Warships (or other type of vessels falling under Heading 8901 etc..
- (b) The applicant also submitted that when the GST Notification is compared with the corresponding Customs/Central Excise Notifications mentioned earlier, it can be noticed that the GST Notification in general terms refers to 'parts of goods falling under 8901, 8902, 8904, 8905, 8906, 8907'.
- (c) The applicant further submitted that whereas, the Customs/ Central Excise Notifications exempted 'raw materials and parts, for use in the manufacture of goods falling under 8901, 8902, 8904, 8905, 8906, 8907'. The expression 'for use in the manufacture of goods' is conspicuously absent from the GST Notification(s).
- (d) Further, the applicant submitted that the Customs Notifications mentioned above, also exempt Capital Goods and spares thereof, raw materials, parts, materials handling equipment and consumables, for repairs of ocean going vessels (including warships) by a ship repair unit. Similar exemption from Central Excise duty was provided vide Notification No.82/84-CE.
- (e) The Notification No.64/95-CE-Sl. No.21-exempted all goods supplied for use in construction of warships of the Indian Navy or Coast Guard.
- (f) In as much as the GST Notifications, do not mention any specific purpose, as has been done in the Customs/ Central Excise Notifications, it is the humble view of the applicants that Sl. No. 252 of Schedule I of the GST Notifications apply to all goods supplied independently or as an assembly/system for use in the ships, whether for manufacture/ construction or for repair etc.

8.5 Summarising the discussion and facts submitted as above, GST is a destination based consumption tax. GST rates are determined by the end use of the product by the consumers. The Water Chiller Plant being supplied by the applicant is meant for consumption by the Indian Navy for the Naval Ships stationed at the Dockyard to maintain the temperature and humidity of the Ships for machines and human comfort. Since the supplies effected by the applicant are meant for Indian Navy and Government of India is the end user of the said supplies for smooth operations of the priority sector being National Defence, GST rate applicable for essential sector-5% is in consonance with the intention of law.

8.6 In view of the above, the applicant prayed to pass an order holding that the water chillar plants supplied by the applicant for use in the warships, vessel and submarines to be deployed by the Indian Navy attract 5% IGST [OR 2.5% CGST + 2.5% SGST depending on the Place of Supply] in terms of Sl. No. 252 of Schedule I of Notification No.1/2017-Central Tax (Rate)/ Integrated Tax (Rate)/ SGST.

9. At the time of personal hearing held through Video Conferencing on 17.08.2020, the Authorised Representative of the applicant, CA Neha Vatsal Shah, reiterated the facts as stated in the Application and as mentioned herein above.

DISCUSSION & FINDINGS:

10. We have considered the submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

10.1 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.

11. In this case, moot points to be decided are the GST rate and HSN/SAC Code applicable to the "Supply, Testing and Commissioning of 160 TR Chilled Water Plant" to the Naval Dockyard (Vishakhapatnam). It is also to be decided as to whether supply of Chilled Water Plant can be categorised as "Any Parts" subject to GST @ 5% under HSN 8906 as per Sr. No. 252 (Any Chapter) of the Notification No. 01/2017-IT (Rate).

12. The applicant submission is as under:

- (i) Subject matter of present application relates to supplies effected against Purchase Order dated 24.10.2019 received from the Naval Dockyard, Visakhapatnam an Indian Naval Ship Repair Organisation of Indian Navy.
- (ii) Said Purchase Order is for composite supply entailing “Supply, Installation, Testing and Commissioning of 01 in No. Trailer Mounted 160 TR Capacity Chilled Water Plant for MYS Department at Naval Dockyard, Visakhapatnam” for Rs.97,60,538/- + applicable GST.
- (iii) The Purchase Order placed by the customer is for Supply of 160TR Chilled Water Plants. The item is an Air Conditioning Plant of 160 TR capacity which is mounted on movable trailer. This Air Conditioning Plant is positioned on Jetty near Ship and used for supplying chilled water through flexible insulated hoses to Ships under refit i.e. ships under repair whose main engine, AC plant are non-operational or cannot be used. The chilled water is further circulated on board ship to provide control temperature for electronics and human comfort. This plant being mounted on trailer is moved from one ship to another depending on the requirement. The equipments supplied by the applicant are primarily used in the Naval Dockyard meant to maintain and control the temperature and humidity in the Naval Ships stationed in the Dockyard.
- (iv) The applicant further submitted that the “Trailer Mounted 160TR Chilled Water Plant” to be commissioned at the Naval Dockyard is not a separate product but comprises of various parts/assemblies. It shall constitute the equipments as under:
 - (a) Semi Hermetic Sealed Screw Type Compressor;
 - (b) Air Cooled Finned tube with Axial type Fan Condenser;
 - (c) Shell & Tube Type Evaporator;
 - (d) Centrifugal Pump with motor for chilled water;
 - (e) Electrical Panel for Starting & Controls of AC Plant;
 - (f) Chilled Water piping/Hoses;
 - (g) Flat Bed mobile trolley on which the Chilled water plant is mounted.

- (v) After supplying said items, they will install the same at Dockyard and conduct the testing to see whether the water cooling work has been done properly and after successful testing, the commissioning would start.
- (vi) Thus, apart from the supply of the Water Chiller Plant, the contract also requires the applicant to provide services of “Testing & Commissioning” of the plant at the Dockyard.
- (vii) The plant being installed shall be mobile and movable since it will be installed on a Trailer to enable movement of same from one ship to another.
- (vi) The applicant further submitted that the supply made of the Water Chiller Plant is essential for smooth operations of stationed Naval Ships since the engines and machines installed in the Naval ships need to be maintained under a fixed temperature to provide efficacy in operation and also prevent damage due to overheating.
- (vii) In the light of facts as given above, supplies made by applicant to Naval Dockyard for use in Warship, Vessels and Submarines being used by the Indian Navy, the applicant is required to determine the classification of the subject supplies and rate of tax applicable for the same.

13. We find from their submission that the said Purchase Order is for composite supply entailing, goods (i.e. Compressor, Fan Condenser, Evaporator, Centrifugal Pump with motor, Electrical Panel, Chilled Water piping/Hoses and mobile trolley) and services (i.e. installation, testing & commissioning) are to be provided by the applicant.

14. Now, first we have to examine whether the supplies are naturally bundled and in conjunction with each other as required by the definition of composite supply. Hence, we refer to the definition of ‘Composite Supply’ as mentioned in sub-section (30) of Section 2 of the CGST Act, 2017, which is as under:-

“Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.”

Section 2 (90) of the CGST Act, 2017, defines ‘principal supply’ as under:

“Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.”

Characteristics of A Composite Supply:

For any supply to be a composite supply, it should have the following attributes:

- Supply should consist of two or more supplies.
- Both supplies should be taxable supplies under GST.
- Supply can be either of goods or services or a combination of both.
- The combination of supplies made should be conjunctive to each other, that is, should be made together at the same time.
- Supplies should be naturally bundled.
- It is possible to bundle two or more supplies in the ordinary course of business.
- Out of the combination of supplies made, one should be a principal supply.

15. From the discussion made above, we find that in the proposed activity, the major part is supply of goods viz. Compressor, Fan Condenser, Evaporator, Centrifugal Pump with motor, Electrical Panel, Chilled Water piping/Hoses and mobile trolley etc. These goods are to be delivered to the applicant to provide services of installation, testing & commissioning of the “Trailer Mounted 160TR Chilled Water Plant” at the Naval Dockyard (Vishakhapatnam). Without these goods, the services cannot be supplied by the applicant and, therefore, we find that the goods and services are supplied as a combination and in conjunction and in the course of their business where the principal supply is supply of goods. Thus, we find that there is a composite supply with supply of goods being the principal supply i.e. ‘Chilled Water Plant’/ ‘Chiller’ in the subject case.

16. We further find that the principal supply as mentioned above in this case is a supply of goods and, therefore, the GST will have to be paid on the goods at the appropriate rate after classification under the appropriate heading. The principal goods in the subject case is a ‘Chilled Water Plant’, which are most important for the applicant to render supply as per the Tender/ Purchase Order. We find that the final deliverable is nothing but ready to operate ‘Chilled Water Plant’/ ‘Chiller’, which supply chilled water through flexible insulated hoses to Ships under refit i.e. ships under repair whose main engine, AC plant are non-operational or cannot be used. The chilled water is further circulated on-board ship to provide control temperature for electronics and human

comfort. Thus, the said Chilled Water Plant shall be mobile and movable since it will be installed on a Trailer lying at Naval Dockyard to enable movement of same from one ship to another depending on the requirement.

17. We thus find that the supply involved in present case is a composite supply with principal supply of goods i.e. supply of the Chilled Water Plant ('Chiller').

18. In order to determine the classification and the tax liability under GST in respect of said supply by the applicant, we are required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 containing the sub-headings as well as the rates of Central GST applicable to various goods, which are covered under 6 Schedules, as below:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI.

Further, Explanations (iii) and (iv) of the said Notification read as under:

(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.

18.1 Under General Rule of Interpretation (GRI) 1, Customs Tariff Act 1975, goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 to GRIs 6.

18.2 Section XVI, Note-2 governs the classification of goods that are identifiable as parts of machines or apparatus of Chapter 84 or Chapter 85. Parts which are goods included in any of the headings of Chapters 84 and 85 are in all cases to be classified in their respective headings as per Note 2(a).

18.3 Note 4 to Section XVI are for classification of machines based on function which they perform: "Where a machine (including a combination of machines)

consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function”.

18.4 The chiller is mainly consisting of compressor (used to increase the pressure & temperature of the refrigerant vapour), evaporators (where cool liquid refrigerant absorbs heat from the chilled water circuit), expansive valve (used to maintain the pressure difference between the high pressure & low pressure sides of the chiller system) and condensers (where the refrigerant vapour is converted to liquid as it rejects heat).

18.5 This continuous, uses of refrigeration cycle by chiller for compression, evaporation and condensation of refrigerant is used to chill water. It does not perform any function other than chilling/refrigerating water. Thus, Chiller is a refrigeration unit. Hence, as per note 4 to section XVI, chiller as functional unit has to be classified as ‘Refrigeration system” under tariff heading 8418.

18.6 Explanatory Notes to heading 8418, as per page XVI-8418-3, 2007 edition, states that “...Apparatus of the foregoing kinds are classified in this heading if in the following forms:

(i) Units comprising a compressor (with or without motor) and condenser mounted on a common base, whether or not complete with evaporator, or self-contained absorbing units (These units are commonly fitted into domestic type refrigerator or other refrigerating cabinets.)Certain compression type machines, known as “liquid -cooling units”, combine on a common base (with or without condensers) ,compressors and a heat exchanger containing an evaporator and tubing carrying the liquid to be cooled. These latter machines include those known as **chillers**, which are used in air-conditioning systems”.

18.7 We further find that Chillers in the domestic and international trade parlance are known as refrigerating equipment. The trade identifies chillers as refrigerating machinery on the basis of its function of chilling water using refrigerating circuit.

18.8 Under the authority of GIR 1, ‘Chiller’ is provided for specific heading 8418. It is classifiable in sub-heading 84181010, read as “*Combined refrigerator-freezers, fitted with separate external doors: Commercial type*”.

18.9 In view of the above, we hold that on application of General Rules for the Interpretation (GIR) of the First Schedule to Customs Tariff GIR-1 read with Chapter Note 2 (b) and Note 4 to Section XVI, the **‘Chilled Water Plant’ (‘Chiller’)** falls under Chapter heading 8418. Also, as per GIR-6 read with HSN Explanatory Note to tariff heading 8415 & 8418, the **‘Chilled Water Plant’ (‘Chiller’)** is correctly classifiable under tariff heading **8418 10 10**.

19. The GST rate on Composite Supply will be equal to the GST rate applicable on the principal supply of such goods and services, included in the composite supply. In such cases, the GST rate applicable to the principal supply levies to the complete supply of goods or services.

20. To determine the rate of GST in respect of the principal supply of goods viz. the **‘Chilled Water Plant’ (‘Chiller’)**, we have gone through the respective entries of the Chapter heading 8418 in the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 (hereinafter referred to as the said notification) and find that the goods of Chapter heading 8418 are covered in Entry at Sl. No.120 of the Schedule IV of said Notification, which read as under:

Schedule IV-14% (CGST)

S. No.	Chapter/Heading/ Subheading/ Tariff item	Description of goods
120.	8418	<i>Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415.</i>

It can be seen from above that goods of Chapter heading 8418 attract GST @ 28% (CGST: 14% + SGST:14%).

20.1 We further note that the Notification No.18/2018-Central Tax (Rate) dated 26th July, 2018 amended the Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017 (w. e. f. 27th July, 2018, resulting that the goods of Chapter heading 8418 would be liable to be taxed @ 9% CGST and @ 9% SGST (in total taxable @18%) as per new entry No. 319A in Schedule III, as extracted below:

Schedule III-9%

S. No.	Chapter/Heading/ Subheading/ Tariff item	Description of goods
319A.	8418	<i>Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415</i>

It can be seen from above that goods of Chapter heading 8418 would attract GST @ 18% (CGST: @ 9%+ SGST: @ 9%), w. e. f. 27.07.2018.

21. In view of the above, we hold that the *“Supply, Testing and Commissioning of 160 TR Chilled Water Plant” to Naval Dockyard (Vishakhapatnam)*, is a composite supply with supply of goods being the principal supply i.e. ‘Chilled Water Plant’/ ‘Chiller’ falling under Chapter sub-heading No. **8418 10 10** and the GST rate applicable to the principal supply levies to the complete supply of goods and services. Accordingly, the applicant is liable to pay GST @28% till 26.07.2018 and @18% from 27.07.2018 on said complete supply of goods and services.

22. Now, we take up the last question *regarding applicability of the Notification No.01/2017-IT (Rate), S. No. 252 (Any Chapter) whether Chiller Water Plant may be categorised as “Any Parts” and subject to GST @ 5% under HSN 8906*. We find that the HSN 8906 covers, *“OTHER VESSELS, INCLUDING WARSHIPS AND LIFEBOATS OTHER THAN ROWING BOATS”*. In this regard, we reiterate that it is admitted fact that the said Chilled Water Plant mounted on movable trailer is positioned on jetty (Naval Dockyard) and not on ship. Said Chilled Water Plant is used for supplying chilled water through flexible insulated hoses to Ships under refit i.e. ships under repair whose main engine, AC plant are non-operational or cannot be used. The chilled water is further circulated on-board ship to provide control temperature for electronics and human comfort. The said plant is, thus, primarily used in the Naval Dockyard meant to maintain and control the temperature and humidity in the Naval Ships stationed in the Dockyard. Since, said Chilled Water Plant is not installed in the Warships, Vessels and Submarines meant for Indian Navy but same is installed at Naval Dockyard, we hold that the same cannot be categorised as “Any Parts” of Vessels under HSN 8906 and consequently, same is not subjected to GST @ 5% under HSN 8906 as per Sr. No. 252 (Any Chapter) of the Notification No. 01/2017-IT (Rate), as we already hold that the said supply *to Naval Dockyard (Vishakhapatnam)*, is a composite supply with principal supply of goods i.e. the ‘Chilled Water Plant’/ ‘Chiller’ falling under Chapter sub-heading No. 8418 10.

23. The Contentions of the Applicant are that the GST Notifications do not mention any specific purpose, as has been done in the Customs/ Central Excise Notifications, it is the humble view of the applicants that Sl. No. 252 of Schedule I of the GST Notifications apply to all goods supplied independently or as an assembly/system for use in the ships, whether for manufacture/ construction or for repair etc.; that GST is a destination based consumption

tax. GST rates are determined by the end use of the product by the consumers. The Water Chiller Plant being supplied by the applicant is meant for consumption by the Indian Navy for the Naval Ships stationed at the Dockyard to maintain the temperature and humidity of the Ships for machines and human comfort. Since the supplies effected by the applicant are meant for Indian Navy and Government of India is the end user of the said supplies for smooth operations of the priority sector being National Defence, GST rate applicable for essential sector-5% is in consonance with the intention of law; that the Chilled Water Plant/ Chiller supplied by the applicant for use in the warships, vessel and submarines to be deployed by the Indian Navy, attracts 5% IGST [OR 2.5% CGST + 2.5% SGST depending on the Place of Supply] in terms of Sl. No. 252 of Schedule I of Notification No.1/2017-Central Tax (Rate)/ Integrated Tax (Rate)/ SGST.

23.1 For the ease of understanding we have perused the Entry at Sl. No. 252 of the Notification No. 01/2017-IT (Rate) dated 28.06.2017, reads as under:

<i>S. No.</i>	<i>Chapter/Heading/Sub-heading/ Tariff item</i>	<i>Description of Goods</i>
252	<i>Any Chapter</i>	<i>Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907</i>

23.2 On perusal of said entry 252, it clearly reveals that this entry covers Parts of goods of headings 8901, 8902, 8904, 8905, 8906 & 8907. As we have already mentioned that the Chilled Water Plant in question is positioned on jetty (Naval Dockyard), which is used for supplying chilled water through flexible insulated hoses to Ships under refit i.e. ships under repair whose main engine, AC plant are non-operational or cannot be used. The chilled water is further circulated on-board ship to provide control temperature for electronics and human comfort. The said plant is, thus, primarily used in the Naval Dockyard meant for repairing to maintain and control the temperature and humidity in the Naval Ships stationed in the Dockyard. Since, said Chilled Water Plant is not at all installed in any vessels, Submarines including Warship and Life Boats meant for Indian Navy, it cannot be categorised as “Any Parts” of goods of headings 8901, 8902, 8904, 8905, 8906 & 8907. Consequently, said supply of the Chilled Water Plant will be out of ambit of the Entry at Sl. No. 252 of the Notification No. 01/2017-IT (Rate) dated 28.06.2017. Further, there is no exemption Notification issued under GST, which provides GST exemption in respect of Supply of 160TR Chilled Water Plant in question to the Naval Dockyard, Visakhapatnam, an Indian Naval Ship Repair Organisation of Indian Navy.

24. In the light of the aforesaid circumstances, we rule as under.

R U L I N G

Question-1: Clarification in details is sought with regard to the GST rate applicable regarding the “Supply, Testing and Commissioning of 160 TR Chilled Water Plant to Naval Dockyard (Vishakhapatnam).

Answer: The “Supply, Testing and Commissioning of 160 TR Chilled Water Plant” to Naval Dockyard (Vishakhapatnam), is a composite supply with the principal supply of goods viz. ‘160 TR Chilled Water Plant’/ ‘Chiller’ falling under Chapter sub-heading No. **8418 10 10** and the applicant is liable to pay GST @28% till 26.07.2018 and @18% from 27.07.2018 on said complete supply of goods and services.

Question-2: Clarification in details is sought with regard to the HSN/SAC code applicable regarding the “Supply, Testing and Commissioning of 160 TR Chilled Water Plant” to Naval Dockyard (Vishakhapatnam).

Answer: The “Supply, Testing and Commissioning of 160 TR Chilled Water Plant” to Naval Dockyard (Vishakhapatnam), is a composite supply with the principal supply of goods viz. ‘160 TR Chilled Water Plant’/ ‘Chiller’ falling under Chapter sub-heading No. **8418 10 10**.

Question-3: Clarification is also sought on applicability of the Notification No. 01/2017- IT (Rate), S. No. 252 (Any Chapter) whether Chiller Water Plant may be categorised as “Any Parts” and subject to GST @ 5% under HSN 8906.

Answer: Answered in the Negative, as discussed above.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 17.09.2020.