

GUJARAT AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.



ADVANCE RULING NO. GUJ/GAAR/R/89/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/61)
Date: 17.09.2020

Name and address of the applicant	:	M/s. ENP Techno Engineers, Shed No.25, GVMM Estate, Behind Kaiwal Weigh Bridge, Odhav, Ahmedabad-382415.
GSTIN of the applicant	:	24AADFE1576E1ZS
Date of application	:	29.11.2019.
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(b) Classification of any goods or services or both. (e) Determination of the 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	:	Shri Akshat Vithlani, C.A.

BRIEF FACTS

The applicant M/s. ENP Techno Engineers located at Shed No.25, GVMM Estate, Behind Kaiwal Weigh Bridge, Odhav, Ahmedabad-382415 are involved in providing Electroplating surface coating and Electroless Nickel Plating services. The applicant has stated that their firm receives the goods(materials) from the party and does process on the materials received and then returns the same goods to the concerned party with their coating on the parts and in such process neither a new product is generated nor is the product with new distinct name being generated i.e. it only enhances the durability of the material to some extent.

2. The applicant has stated that as on 30.09.2019, CBIC has issued notification No.20/2019-CGST which has amended the rate of GST for the job work prescribed in Notification No.11/2017-CGST; that in the said notification, point (i)(d) contains that the rate of job work where the process does not amount to any manufacture will attract rate of SGST and CGST of 6% each. The extract of Notification No.11/2017-CGST Rate and Notification No.20/2019-CGST rate are re-produced hereunder:

Sr. No.	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
26.	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	(i) Services by way of job work in relation to- (a) Printing of newspapers; (b) Textile yarns (other than of man-made fibres) and textile fabrics; (c) Cut and polished diamonds; precious and semi-precious stones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); (d) Printing of books (including Braille books),	2.5	-----

		<p>journals and periodicals;</p> <p>(e) Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).</p> <p><i>Explanation.-</i> “man made fibres” means staple fibres and filaments of organic polymers produced by manufacturing processes either,-</p> <p>(a) by polymerisation of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes, or by chemical modification of polymers produced by this process [for example, poly(vinyl alcohol) prepared by the hydrolysis of poly(vinyl acetate)]; or</p> <p>(b) by dissolution or chemical treatment of natural organic polymers (for example, cellulose) to produce polymers such as cuprammonium rayon (cupro) or viscose rayon, or by chemical modification of natural organic polymers (for example, cellulose, casein and other proteins, or alginic acid), to produce polymers such as cellulose acetate or alginates.</p>		
		<p>“(ia) Services by way of job work in relation to-</p> <p>(a) manufacture of umbrella;</p> <p>(b) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent.</p> <p>“(ib) Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p> <p>(ic) Services by way of job work in relation to bus body building;</p> <p>(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;</p>	<p>2.5</p> <p>0.75</p> <p>9</p> <p>6</p>	<p>---</p> <p>---</p> <p>---</p> <p>---</p>
		<p>(ii) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), “(ib), (ic), (id), (ii), (iia) and (iii) above.</p>	9	----

3. The applicant has submitted that there is confusion whether their service will fall under (id) or Sr.No.(ii) of the list as per the above notification; that as per the process and no manufacturing activity done by them, it is their humble belief that the services provided by their firm will fall under (id) by way of job work other than (i) (ia) (ib) (ic) above and the reason for that is as follows:

(a) Point(ii) covers manufacturing services on physical inputs(goods) owned by others, other than (i) above. The definition of manufacturing services is not defined in CGST Act, however, the word ‘manufacture’ has passed through various jurisprudence pronouncements and various tests in erstwhile law and as per Section 2(f) of the Central Excise Act, 1944, manufacture includes any process:

- (i) Incidental or ancillary to the completion of manufactured product And
- (ii) Which is specified in relation to any goods in the section or chapter notes of the 1st Schedule to the Central Excise Tariff Act, 1985 (CETA), as amounting to manufacture (deemed manufacture) OR
- (iii) Which in relation to the goods specified in the 3rd Schedule of CETA involves packing or repacking of such goods in a unit container or labelling or relabelling of containers including declaration or alteration or alteration of retail sale price on it or

adoption of any other treatment on the goods to tender the product marketable to the consumer.

4. The applicant has quoted various judgements/circular which gives the definition of manufacture as under:

- (a) In a landmark case of UOI vs. Delhi Cloth and General Mills Co.ltd., (1977(1)E.L.T.(J199)(S.C.), it was held that manufacture is 'bringing into existence of a new substance known to market' and that merely applying the process to a substance would not amount to manufacture if there is nothing new and marketable created. The definition was further refined in later decisions to clarify that excisable goods are required to be capable of being bought and sold and even if there is a tariff entry provided under Central Excise Tariff Act, 1985, it would first need to pass the test of manufacture. The second test of marketability became the indivisible criterion to attract excise duty liability.
- (b) In the case of UOI vs. JG Glass (1988(97)E.L.T.5(S.C.)), while determining whether printing of brand names and logos on bottles amounts to manufacture, the Supreme Court propounded a two-fold test for cases where only a process was applied to an existing item. The Court said two aspects need to be checked, i.e. first, whether by the said process a different commercial commodity comes into existence or whether the identity of the original commodity ceases to exist, secondly, whether, the commodity which was already in existence will serve no purpose but for the said process.
- (c) Circular No.927/17/2010-CX dated 24.06.2010 in its point no.3 clearly indicates that '3...For a process to amount to manufacture under Section 2f of the Central Excise Act, 1944, the process undertaken should result in emergence of commodity having different name, character and use. Since in the present case no new product emerges as a result of the process of packing coating and metal finishing it will not amount to manufacture.

The applicant has stated that it is very clear from the above circular and judicial pronouncements that the activity or process can be manufacture only when it produces different name, character and use.

5. The applicant has stated that the definition of job work as per Section 2(68) of the CGST Act is *"any treatment or process undertaken by a person on goods belonging to another registered person and the expression 'job worker' shall be construed accordingly."* The applicant has submitted that the definition of Electroplating Service is not provided in GST Act but as per Wikipedia 'Electroplating is a process that uses an electric current for metal coating, but no electric current is used by them to reduce dissolved metal captions so that they form a thin coherent metal coating on a job; that the term is also used for electrical oxidation of anions on to a solid substrate, as in the formation of silver chloride on silver wire to make silver/silver-chloride electrodes; that electroplating is primarily used to change silver wire to make silver/silver-chloride electrodes; that electroplating is primarily used to change the surface properties of an object (such as abrasion and wear resistance, corrosion protection, lubricity, aesthetic qualities), but may also be used to build up thickness on undersized parts or to form objects by electroforming; that other electroplating processes may use a non-consumable anode such as lead or carbon and in these techniques, ions of the metal to be plated must be periodically replenished in the bath as they are drawn out of the solution; that the most common form of electroplating is used for creating coins, such as US pennies, which are made of zinc covered in a layer of copper; that in Layman's language, we can say that the electroplating will put a coating on a part, hence this process will not result in any product with distinct name or character nor

does it change the characteristics of the product and hence does not amount to manufacture.

6. The applicant has further submitted that with respect to the Circular No.126/45/2019 issued on 22.11.2019, clarification has been given by CBIC with respect to GST rate on SAC code of job work and as per the circular, they understand that where there is job work done as per section 2(68) of CGST Act, where the process is done by the assessee of the material provided by other registered persons, the GST rate applicable will be 12% and where process is done by the assessee on the material provided by unregistered person, the rate of GST will be 18%; that through this demarcation, they understand the rate applicability as under:

Sr.No.	Service	Input provided by registered person/ unregistered person	GST rate applicability
01.	Electroplating surface coating and Electroless Nickel Plating service.	Registered person	12%
02.	Electroplating surface coating and Electroless Nickel Plating service.	Unregistered person	18%

6.1 The applicant has concluded his submission by stating that with the aforementioned reasons and discussions, they believe that the process is a job work process which does not amount to manufacture and hence, GST should be levied at 6% under (id) of Sr.No.26 of Notification where the material on which process is to be done is received from registered person and the rate should be 9% where the material on which process to be done is received from unregistered person. The applicant is seeking Advance Ruling on the following:

“ Whether the service supplied by the applicant would fall under (id) or (ii) of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 as amended and what would be the rate of GST applicable?”

DISCUSSION & FINDINGS:

7. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative Shri Akshat Vithlani, C.A. at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

8. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 similar provisions of the GGST Act.

9. Based on the submission of the applicant as well as the arguments/discussions made by the representative of the applicant during the course of personal hearing, we find that the main issue to be decided is whether the services of Electroplating surface coating and Electroless nickel plating provided by the applicant are classifiable under Entry No.(id) or (ii) of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017. As per their submission, the applicant receives the goods(materials) from the party and does process on the materials received and then returns the same goods to the concerned party with their coating on the parts and in such process neither a new product is generated nor is the product with new distinct name being generated i.e. it only enhances the durability of the material to some extent.

10. To begin with, we need to find out the correct classification of services of Electroplating surface coating/electroless nickel plating rendered by the applicant as well as the liability of GST on the said services and also to confirm whether the services provided by the applicant are indeed covered under Heading 9988 as stated by them, for which we will be required to refer to Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 which covers the chapter, section and sub-heading of services under GST. We have gone through the said notification and find that Entry No.26 of the said notification pertains to Heading No.9988 (Manufacturing services on physical inputs (goods) owned by others) and contains services supplied/provided by way of jobwork and reads as under:

Sr. No.	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
26.	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	<p>(i) Services by way of job work in relation to-</p> <p>(a) Printing of newspapers;</p> <p>(b) Textile yarns (other than of man-made fibres) and textile fabrics;</p> <p>(c) Cut and polished diamonds; precious and semi-precious stones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p> <p>(d) Printing of books (including Braille books), journals and periodicals;</p> <p>(e) Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).</p> <p><i>Explanation.-</i> “man made fibres” means staple fibres and filaments of organic polymers produced by manufacturing processes either,-</p> <p>(a) by polymerisation of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes, or by chemical modification of polymers produced by this process [for example, poly(vinyl alcohol) prepared by the hydrolysis of poly(vinyl acetate)]; or</p> <p>(b) by dissolution or chemical treatment of natural organic polymers (for example, cellulose) to produce polymers such as cuprammonium rayon (cupro) or viscose rayon, or by chemical modification of natural organic polymers (for example, cellulose, casein and other proteins, or alginic acid), to produce polymers such as cellulose acetate or alginates.</p>	2.5	---
		(ii) Manufacturing services on physical inputs (goods) owned by others, other than (i) above.	9	----

Further, para-4 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 reads as under:

4.*Explanation.-* For the purposes of this notification,-

(i) Goods includes capital goods.

(ii) Reference to “Chapter”, “Section” or “Heading”, wherever they occur, unless the context otherwise requires, shall mean respectively as “Chapter”, “Section” and “Heading” in the annexed scheme of classification of services (Annexure).

(iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), 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 heading 9988.

(iv)-----

10.1 From the above, it can be seen that as per para(iii) above, the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall apply to the interpretation of heading 9988. Further, it is also seen that the “Manufacturing services on physical inputs (goods) owned by others, other than (i) above” falls at entry of item(ii) and the GST liability on the same is 18% (9% SGST + 9% CGST). We find that the aforementioned Notification has been amended vide Notification No.20/2017-Central Tax(Rate) dated 22.08.2017 wherein the major amendment is the shifting of ‘Manufacturing services on physical inputs (goods) owned by others’ from item(ii) to item(iii). The amendments made vide above notification in respect of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 is detailed hereunder:

“(vi) against serial number 26,-

(a) in column (3), in item (i),-

(A) for sub-item (b), the following sub-item shall be substituted, namely:-

“(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”;

(B) the Explanation shall be omitted;

(b) for item (ii) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely:-

<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>“(ii) Services by way of any treatment or process on goods belonging to another person, in relation to- (a) printing of newspapers; (b) printing of books (including Braille books), journals and periodicals.</i>	<i>6</i>	<i>---</i>
<i>(iii) Manufacturing services on physical inputs (goods) owned by others, other than (i) and(ii) above.</i>	<i>9</i>	<i>---</i>

10.2 Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 has been further amended vide Notification No.31/2017-Central Tax(Rate) dated 13.10.2017 wherein the following amendments have been made in respect of Entry No.26 of the said Notification:

“(h) against serial number 26,in column (3), -

(i) in item (i), for sub-item (c), the following sub-item shall be substituted, namely:

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“(c) all products falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”

(ii) in item (i),after sub-item (d), the following sub-item shall be inserted, namely: -

“(da) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5per cent. or Nil;”

(iii) in item (i), after sub-item (e), the following sub-items shall be inserted, namely: -

“(f) all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);

(g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975), except dog and cat food put up for retail sale falling under tariff item 23091000 of the said Chapter;

(h) manufacture of clay bricks falling under tariff item 69010010 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);”

(iv) after item (i), in columns (3), (4) and (5)and the entries relating thereto, the following shall be inserted namely:

(3)	(4)	(5)
<i>(ia)Services by way of job work in relation to- (a) manufacture of umbrella; (b) printing of all goods falling under Chapter 48 or 49, which attract which attract CGST @ 6per cent.</i>	6	---

(v) in item (ii), after sub-item (b), the following sub-item shall be inserted, namely:

“(c) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent. or Nil.”;

(vi) after item (ii), in columns (3), (4) and (5)in column (3) and the entries relating thereto, the following shall be inserted, namely: -

(3)	(4)	(5)
<i>“(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or Chapter 49 which attract CGST @ 6per cent.</i>	6	---

(vii) in item (iii), for the word, brackets and figures “and (ii)” the figures, brackets, letters and word “, (ia), (ii) and (iia)” shall be substituted;”

10.3 Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 has been further amended vide Notification No. 46/2017-Central Tax(Rate) dated 14.11.2017, wherein the following amendments have been made in respect of Entry No.26 of the said Notification:

“(iii)against serial number 26, in column (3), in item (i), after sub-item (h), the following shall be inserted, namely: -

‘(i) manufacture of handicraft goods.

Explanation. - The expression “handicraft goods” shall have the same meaning as assigned to it in the notification No. 32/2017 -Central Tax, dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1158 (E), dated the 15th September, 2017 as amended from time to time.’

10.4 Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 has been further amended vide Notification No.01/2018-Central Tax(Rate) dated 25.01.2018, wherein the major change is the shifting of “manufacturing service on physical inputs(goods) owned by others”, from item(iii) to item (iv). The amendments made in respect of Entry No.26 of the said Notification is as under:

(j) against serial number 26, in column (3),-

(A) in item (i), after sub-item (e), the following sub-item shall be inserted, namely:

-

“(ea) manufacture of leather goods or foot wear falling under Chapter 42 or 64 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975) respectively;”;

(B) for item (iii) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely: -

(3)	(4)	(5)
“(iii) Tailoring services.	2.5%	---
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ii), (iia) and (iii) above.	9%	---

10.5 Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 has been further amended vide Notification No. 20/2019-Central Tax(Rate) dated 30.09.2019 (effective from 01.10.2019), wherein the major change is the insertion of entries of item(ib), (ic) and (id). The amendments made in respect of Entry No.26 of the said Notification is as under:

(n) against serial number 26, in column (3), after item (ia) and the entries relating thereto in columns (3), (4) and (5), the following shall be inserted, namely: -

(3)	(4)	(5)
“(ib) Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);	0.75	---
(ic) Services by way of job work in relation to bus body building;	9	---
(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	---

(o) against serial number 26, in column (3), in item (iv), after the brackets, words and figures “(ia),”, the brackets, words and figures “(ib), (ic), (id),” shall be inserted;

10.6 Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017(after amendments by all the aforementioned notifications) reads as under(as on date):

Sr. No.	Chapter, Section or Heading	Description of Service	Rate (percent)	Condi- tion
26.	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	(i) Services by way of job work in relation to- (a) Printing of newspapers; (b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);” (c) all products other than diamonds, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);”; (d) Printing of books (including Braille books), journals and periodicals; (da) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5per cent. or Nil; (e) Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975). (ea) manufacture of leather goods or foot wear falling under Chapter 42 or 64 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975) respectively;”; (f) all food and food products falling under Chapters 1 to	2.5	--

		<p>22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p> <p>(g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), except dog and cat food put up for retail sale falling under tariff item 23091000 of the said Chapter;</p> <p>(h) manufacture of clay bricks falling under tariff item 69010010 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”</p> <p>(i) manufacture of handicraft goods.</p> <p><i>Explanation.</i> - The expression “handicraft goods” shall have the same meaning as assigned to it in the notification No. 32/2017 -Central Tax, dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1158 (E), dated the 15th September, 2017 as amended from time to time.</p> <p>“(ia) Services by way of job work in relation to-</p> <p>(a) manufacture of umbrella;</p> <p>(b) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent.</p> <p>“(ib) Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p> <p>(ic) Services by way of job work in relation to bus body building;</p> <p>(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;</p> <p>(ii) Services by way of any treatment or process on goods belonging to another person, in relation to-</p> <p>(a) printing of newspapers;</p> <p>(b) printing of books (including Braille books), journals and periodicals.</p> <p>(c) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent. or Nil.”;</p> <p>(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent.</p>	6	---
			0.75	--
			9	--
			6	--
			2.5	--
			6	--
		“(iii) Tailoring services.	2.5	---
		(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above.	9	----

11. After going through the entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 as well as all the amendments of the said notification, we find that the applicant has not taken into consideration all the aforementioned amendments while filing the application. The applicant has shown the entry in respect of “*Manufacturing services on physical inputs(goods) owned by others, other than (i) above*” at item(ii)(please refer para 6.1 above), which is as per the Original Notification No.11/2017-Central Tax(Rate) dated 28.06.2017), whereas after all the aforementioned amendments to the said Notification, the said entry appears at item(iv) of Entry No.26 of the said Notification. Further, we also find that the entry item (id)referred to by the applicant has been inserted vide Notification No.20/2019-Central Tax(Rate) dated 30.09.2019 only. Therefore, in view of the above, the question of the applicant seeking advance ruling, should correctly read as under:

“ Whether the service supplied by the applicant would fall under (id) or (iv) of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 as amended and what would be the rate of GST applicable?”

12. Next, we are required to find out what Electroplating surface coating and Electroless nickel plating means. Since the definition of these terms are not available in the CGST Act, 2017, we will be required to refer to the definition of these terms as per dictionary. As per Dictionary.com:

(a) *“Electroplating surface coating is the process of coating the surface of a conducting material with a metal. During the process, the surface to be covered acts as a cathode in an electrolytic cell, and the metal that is to cover it acts as an anode.”*

(b) *“Electroless nickel plating is a process that codeposits a nickel-phosphorous alloy without need for an externally applied electrical current.*

12.1 On going through the above definitions, it appears that the aforementioned processes results in the formation of a coating on the materials/metals on which it is carried out. Also, as per the submission of the applicant, the coating done by carrying out the aforementioned processes enhances the durability of the materials/metals to some extent. However, as per the data available online, electroplating changes the chemical, physical, and mechanical properties of the workpiece. An example of a chemical change is when nickel plating improves corrosion resistance. An example of a physical change is a change in the outward appearance. An example of a mechanical change is a change in tensile strength or surface hardness which is a required attribute in tooling industry. Electroplating of acid gold on underlying copper- or nickel-plated circuits reduces contact resistance as well as surface hardness. Copper-plated areas of mild steel act as a mask if case hardening of such areas are not desired. Tin-plated steel is chromium-plated to prevent dulling of the surface due to oxidation of tin. The inside of a steel food can is electroplated with tin, a less reactive metal than iron which provides a physical barrier to oxygen and water, stopping the can from rusting. Compared to the electroplating process, a major advantage of electroless nickel plating is that it creates an even coating of a desired thickness and volume, even in parts with complex shape, recesses, and blind holes. Because of this property, it may often be the only option. Another major advantage of electroless nickel plating is that it does not require electrical power, electrical apparatuses, or sophisticated jigs and racks. Electroless nickel plating can have a matte, semi-bright, or bright finish.

12.2 We have gone through all the above entries (i) to (iv) of the Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 (amended till date) as mentioned in para 10.6 and find that none of the entries from item (i) to (iii) except item (id) (applicable from 01.10.2019 onwards) and item (iv) would be applicable to the applicant. Since the applicant has referred to both entries of item(id) as well as item(iv) of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017(as amended) we will discuss both of them simultaneously. On going through the above entries, we find that:

(1) Entry at item(id) refers to *“Services by way of job work other than (i), (ia), (ib) and (ic) above* whereas

(2) Entry at item(iv) refers to *“Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia),(ib), (ic), (id), (ii), (iia) and (iii) above.*

12.3 We also find that the applicant has time and again stated in his submission that the services provided by them does not amount to manufacture as it does not result in the emergence of a commodity having

different name, character and use. The applicant have also quoted a few judgements and a circular to support their contention and have stated that the services provided by them are job work only and does not amount to manufacture and would therefore be covered under item(id) of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017(as amended) and not under item(iv) of the said entry. Here, we would like to mention that there is no denying the fact that the procedure followed by the applicant is that of job work only and that there is a general entry available at item(id) of Entry No.26 of above said notification with effect from 01.10.2019. We also fully agree with the view of the applicant that the service provided by the applicant does not amount to manufacture, but the word mentioned in item(iv) of aforementioned entry is 'manufacturing services' and not 'manufacture'. 'Manufacturing services' are completely different from 'manufacture'. Since the definition of 'manufacturing services' is not available under the GST Act, 2017, the definition of the same will have to be derived in generic terms or from common parlance. We are of the opinion that 'manufacturing services' is not akin to 'manufacture' but are services which are related to the process of manufacture or assist in the process of manufacture of goods. It also appears that the process of Electroplating surface coating and Electroless nickel plating are, perhaps, the last of the processes to be carried out on goods/products during the course of manufacture, akin to coating goods/products with paint or spray painting, and completing of this process would result in the emergence of a finished product. We therefore find that the very purpose of the manufacturer of sending these goods/products for Electroplating surface coating/electroless nickel plating is that they are a very essential or indispensable part of the process of manufacture towards making the product a finished product i.e. without this process, the goods/products in question would not be finished products. We, therefore find, that although the procedure followed by the applicant is that of jobwork, we find that the process of Electroplating surface coating and Electroless nickel plating are essential services connected to the process of manufacture of the goods which results in the emergence of the finished product and would therefore be rightly covered under 'manufacturing services' or services related to the manufacture of goods. We therefore, feel that the services provided by the applicant would be more appropriately classified under the item (iv) rather than (id). Here we will be required to refer to Rule 3 of the General Rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which reads as under:

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

(a)the heading which provides the most specific description shall be preferred to headings providing a more general description.

However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

((b)mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as the criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b) , they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration."

12.4 On going through the above, we feel that entry at item(iv) of Sr.No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 (as amended) provides the most specific description to the services provided by the applicant as compared to the general description provided at item(id) of the said entry. We therefore conclude that the services of electroplating surface coating and electroless nickel plating provided by the applicant are classifiable under item(iv) of Sr.No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017(as amended).

13. Further, by referring to the above entries, we find that the entry to item(id) above has been inserted vide Notification No.20/2019-Central Tax(Rate) dated 30.09.2019 and is effective from 01.10.2019 only as per the said Notification. We also find that the GST liability against item (id) is 12% (6% SGST + 6% CGST) whereas GST liability in respect of item(iv) is 18% (9% SGST + 9% CGST). We therefore find that the confusion of the applicant as to whether the services provided by them would fall under Entry to item(id) or item(iv) is only for the period from 01.10.2019 onwards and that with regard to the period prior to 01.10.2019, the only classification available to them was under item(iv) i.e. “ *Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ii), (iia) and (iii) above*” on which the liability of GST was 18%(9% SGST + 9% CGST). In this regard, we would like to refer to Circular No.126/45/2019-GST dated 22.11.2019 issued by the Board from File F.No.354/150/2019-TRU wherein a reference has been made to item (id) under heading 9988 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 which was inserted vide Notification dated 30.09.2019 w.e.f. 01.10.2019 vide which the GST rate on all job work services have been reduced to 12% from 18% and has also made entry at item(iv) redundant. Entries at item (id) and (iv) read as under:

Description of Service	Rate (percent)	Condi- tion
(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	---
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above.	9	---

The Circular has referred to the definition of Job work as defined in Section 2(68) of the CGST Act and has stated that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No.11/2017-Central Tax (Rate) dated 28-06-2017; that Entry at item (id) covers only job work services as defined in section 2 (68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person and on the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.

13.1 Therefore, in view of the clarification given by the Board vide Circular No.126/45/2019 issued on 22.11.2019 as well as in light of the discussions made in the earlier paras, we conclude that the services of Electroplating surface coating and Electroless nickel plating provided by the applicant are classifiable under Heading 9988 (Manufacturing services on physical inputs(goods) owned by others) which appears at item(iv) of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 (as amended). The GST liability on the above would be 18% (9% SGST + 9% CGST) upto

21.11.2019. However, in view of clarification issued by the Board vide Circular No.126/45/2019 dated 22.11.2019, the GST liability for the applicant for the period from 22.11.2019 onwards would be as follows:

Sr.No.	Service	Input provided by registered person/ unregistered person	GST rate applicable
01.	Electroplating surface coating and Electroless Nickel Plating service.	Registered person	12%
02.	Electroplating surface coating and Electroless Nickel Plating service.	Unregistered person	18%

14. In light of the foregoing, we rule, as under –

R U L I N G

The services supplied by the applicant M/s. ENP Techno Engineers, Ahmedabad would fall under item (iv) of Entry No.26 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time) issued under the CGST Act, 2017. The GST liability would be 18% (9% SGST + 9% CGST) for the period upto 21.11.2019. The GST liability for the applicant for the period from 22.11.2019 onwards would be: (i) 12% (6% SGST + 6% CGST) in respect of services supplied to registered persons and (ii) 18%(9% SGST + 9% CGST) in respect of services supplied to unregistered persons.

(SANJAY SAXENA)

(MOHIT AGRAWAL)

MEMBER

MEMBER

Place: Ahmedabad

Date: 17.09.2020.