

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/91/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/63)
Date: 17.09.2020

Name and address of the applicant	:	M/s. Apar Industries ltd., Plot No.157 to 163, 2827, 151 to 153, 164, Survey No.189/P1, GIDC Road, Tal.Umbergaon, Valsad (Dist.), Gujarat-396171 (Gujarat State).
GSTIN of the applicant	:	24AAACG1840M1ZR
Date of application	:	17.12.2019.
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(b)Applicability of a notification issued under the CGST Act, 2017. (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 D P Bhavé , Adv.

BRIEF FACTS

The applicant M/s. Apar Industries ltd. located at Plot No.157 to 163, 2827, 151 to 153, 164, Survey No.189/P1, GIDC Road, Tal.Umbergaon, Valsad (Dist.), Gujarat-396171 (having correspondence address at 12/13, Jyoti Wire House, 23A, Shah Industrial Estate, Off.Veera Desai Road, Andheri(West), Mumbai) are manufacturers and suppliers of various goods such as:(a) Transformer oils, white oil, industrial lubricating oils and specialities oils falling under the Customs/GST Tariff No.2710. (b) Aluminium conductors falling under Chapter Heading No.7614 of the Customs/GST Tariff Act. (c) Various grades of cables, including power/electric cables, house wire cables, marine/pressure tight cables and non-pressure tight cables and other cables, etc. falling under Chapter Heading No.8544 of the Customs Tariff Act.

2. The applicant has stated that they have received orders and are expecting future orders from the Defence Machinery Design Establishment (DMDE), Department of Defence Research and Development under the Ministry of Defence, Government of India for the supply of Marine-pressure tight and Non-Pressure tight cables, specially made and designed for use in the warship as ‘parts’ of warship; that these cables are though universally classified under Tariff Heading No.8544, but made and designed for use in Warship as it’s integral parts, without which warship cannot function and cannot be treated as complete in all respects and at the same time the same is capable of being separated from warship for repairs and replacement and that the Rear Admiral of the Indian Navy, an officer equivalent in rank to the Joint Secretary of the GOI, has issued a Certificate of End User, vide F.No.HLC/85/PT-10 Cables (32 Types)/S4” dated 10.06.2019, to that effect, clearly showing therein the use of cables in warship application and applicability of GST@5%. They have also stated that they being manufacturer and supplier of goods and an applicant in the present case for Advance Ruling seeks an immediate authority/order about

'Determination of Liability to pay Tax on the above goods' to be supplied by them to the Defence Ministry for their use as parts of warship as it involves national interest and its security as the Ministry of Defence needs the supply urgently and immediately.

3. The applicant has stated that the various types and grades of cables manufactured and supplied by them such as power/electrical cables, house wire cables, marine cables-pressure tight and non-pressure tight cables and other cables fall under Chapter Heading No.8544 of the Customs Tariff /GST Tariff, wherein applicable general rate of GST is 18%; that the Government of India, Ministry of Finance, Department of Revenue has issued Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 classifying and grouping the goods into six schedules for the purpose of uniformity in levying and affixing rate of GST category-wise/schedule-wise. All goods of Schedule-I are categorised as 5% GST rated goods, wherein Sr.No.250 and 252 referred to are in respect of the following supply/goods:

Sr.No.250	The goods of Tariff Heading 8906 with the description as "Other vessels, including warships and lifeboats other than rowing boats."	Will attract GST @5%.
Sr.No.252	The goods of any Tariff Heading/Chapter, if they are the "Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907."	GST@5% will be applicable.

4. The applicant have further stated that they recently procured the following orders for supply of marine/pressure tight cables/non-pressure tight cables, from the 'Defence Machinery Design Establishment (DMDE), Department of Defence Research and Development, Ministry of Defence, Government of India, for their use in the Warship as the "Parts of goods of heading 8906 or the parts of 'Warship' and that while placing the above orders, the Ministry of Defence have clearly and categorically stated that GST @5% will be applicable on this supply in terms of Sr.No.252 of Schedule-I of the above Notification as these goods (cables) are intended to be used in warship as parts of warship.

- (i) Purchase Order No.HLC/85/PT-10 ((32 Types)/S4*/225 dated 26.03.2019).
- (ii) Purchase Order No.PT-45: PO No.HLC/85/PI-45(05 Types)/S4*/228 dated 22.04.2019.
- (iii) Purchase Order Special Cable HLC/85/SPL-CABLES(09 Types)/S4*/237 dated 17.06.2019.
- (iv) Tender No.NPT Cable:HLC/85/NPT CABLES/S4* dated 6.5.2019 (Order Expected).

However, the applicant has submitted photocopies of Purchase order mentioned at Sr.No.(i) above only as well as End Use Certificate issued by the Real Admiral and Director, DMD Establishment, Post Box No.2043, Secunderabad on 10.06.2019 from File F.No.HLC/85/PT-10 Cables (32 Types)S4* in respect of the said purchase order.

5. The applicant has stated that since the marine/pressure tight cables/non-pressure tight cables, to be supplied by them are very essential and integral part of the warship, without which warship cannot function and cannot be completed and at the same time the said goods supplied and used in the warship are capable of being separated as such for the purpose of repairs and replacement and hence an End User Certificate duly signed by the Rear Admiral of Indian Navy/Defence Ministry, an officer equivalent to the rank of Joint Secretary to the Government of India has issued a certificate certifying therein the intended use of the said goods as "parts of warship" vide their File No.HLC/85/PT-10 Cables (32 Types)/S4* dated 10.06.2019; that therefore

their claim of applicability of GST@5% on their above supply in terms of Sr.No.252 of Schedule-I of the Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 seems legally correct and in order; that they are of the view that since the goods i.e. marine-pressure tight and non-pressure tight cables manufactured and designed by them for use by the Ministry of Defence in their warship as parts of warship, the benefit of Sr.No.252 of Schedule-I of the Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 is applicable; that the goods supplied to the Ministry of Defence can be classified under any chapter, i.e. under Heading 8544 at the present case on hand, but when the same is used as part of goods of Chapter 8906(warship), benefit cannot be denied. The applicant has also stated that in the present case the Ministry of Defence, has also issued an “End User Certificate”, certifying therein its intended use for the purpose notified i.e. in the warship as parts of warship and also claimed concessional rate of GST as per the notification issued by the Government and hence the benefit of concessional rate is admissible on these supplies.

6. The applicant has further stated that full exemption was admissible/allowed in the erstwhile pre-GST regime, on all the goods supplied to Navy or Ministry of Defence, in terms of Notification No.64/95-CE dated 16.03.1995, duly amended by Notification No.25/2002-CE, based on mere certificate of use issued by the Rear Admiral of Indian Navy or an officer not in rank below Joint Secretary to the Government of India. They have stated that even in post GST regime, benefit of concessional rate of GST is also provided for intended use of any goods falling within any chapter, once it is certified that the same is used in warship as parts of warship and hence the concessional rate of GST @5% is applicable to Marine or Pressure tight cables when supplied for use in warship in terms of Sr.No.252 of Schedule-I of the Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 and that as per the said entry “Goods supplied can be of any chapter/heading”, if known, recognized and used as “Parts of goods of heading 8901, 8902, 8904, 8905, 8906 and 8907”, the GST applicable rate will be either 2.5% each of CGST and State/UT GST or 5% IGST.

7. The applicant has submitted some additional documents which was received vide email dated 25.08.2020 which contained photocopies of Purchase Orders mentioned at Sr.No.(ii) and (iii) in para 4 above along with the photocopies of contracts/agreements. The applicant has asked the following question seeking Advance Ruling on the same:

“ Whether the applicability or determination of liability to pay Tax on our said goods at 5% GST rate is legally correct and in order in terms of Schedule-I of Notification No.1/2017-Integrated Tax(Rate) or not?”

CONTENTION-AS PER THE CONCERNED OFFICER:

8. The contentions of the concerned officer are reproduced hereunder in brief:

(1) “End user certificate mentioned that the goods to be procured is intended for warship application vide Srls.250 and 252 of Schedule-I of Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 and the said notification attracts 5% of GST on Marine pressure tight cables and Marine non-pressure tight cables. Since the notification clearly mentions that goods of any chapter which will be used as parts of goods of heading 8901, 8902, 8904, 8905, 8906, 8907 will attract 5% GST, to determine the parts, the following categories may also be considered on which the goods are to be supplied under the rate of 5%:

a. The bifurcation of goods into equipment, raw material and consumables.

- b. Essentiality of such goods.
- c. Usability of such goods on the warship/submarine.
- d. Bifurcation of goods as imported/indigenous.

- (2) On fulfilment on the above condition their claim of applicability of GST @5% on their supply in terms of Sr.No.252 of Schedule-I of above notification appears to be correct. Further, para 2 of End Use Certificate submitted by applicant reads as under:

“GST is applicable @5% for goods intended for Warship application vide Sls.250 and 252 of Schedule-I of Notification No.01/2017-Integrated Tax (Rate) dated 28th June, 2017 issued by the Department of Revenue, Ministry of Finance, Government of India”.

- (3) In the said para it is not clear that the intended goods to be procured are essential parts for warships such as Anchor, Bow, Bowspirit, Fore and Aft, Hull, Keel, Mast, Rigging, Rudder, Sails, shrouds, Engines, gearbox, Propellor, Bridge etc. or simply used as additional equipments that are required to be made available on a ship as a measure of statutory compliances under various marine acts such as Merchant Shipping Act or Additional Safety measures such as Walkie-talkie, Binoculars, Life Jackets, Lifeboats, etc. Though these are also to be compulsorily made available on a ship or vessel but cannot be taken to be parts of a ship as per general understanding but are rather additional equipments on a ship and like other essential items like furniture, fans, air-conditioners, television, etc. which are very essential for comfort of officers and crew of the ship but do not come under essential parts or equipments of a vessel/ship. Thus without constituting the components covered under essential or additional equipment, the intended goods i.e. Pressure tight cables and Non pressure tight cables classified under Tariff Heading 8544 can't be applied under 5% duty structure.
- (4) Considering the facts and documents like end user certificate, the goods cannot be covered under 5% of GST and it should be cleared under 18% of GST. In this respect, Order No.GST-ARA-28/2017-18/B-64 dated 11.07.2018 issued under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 in the case of Mazagon Dock Shipbuilders limited(GST AAR Maharashtra) may be referred.

DISCUSSION & FINDINGS:

9. 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 D P Bhave , Advocate of the applicant at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant. We have also taken into consideration the contention of the concerned officer.

10. 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. However, since the present application submitted by the applicant deals with inter-state supply of goods, we will be required to make references to the IGST Act, 2017 as well as the Notifications of Integrated Tax(Rate) issued under the said Act.

11. As per the submission of the applicant, the marine/pressure tight cables/non-pressure tight cables, to be supplied by them are very essential and integral part of the warship, without which warship cannot function and cannot be completed and at the same time the said goods supplied and used in the warship are capable of being separated as such for the purpose of repairs and replacement and hence an End User Certificate duly signed by the Rear Admiral of Indian Navy/Defence Ministry, an officer equivalent to the rank of Joint Secretary to the Government of India has issued a certificate certifying therein the intended use of the said goods as “parts of warship” vide their File No.HLC/85/PT-10 Cables (32 Types)/S4* dated 10.06.2019; that therefore their claim of applicability of GST@5% on their above supply in terms of Sr.No.252 of Schedule-I of the Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 seems legally correct and in order. The applicant has further stated that full exemption was admissible/allowed in the erstwhile pre-GST regime, on all the goods supplied to Navy or Ministry of Defence, in terms of Notification No.64/95-CE dated 16.03.1995, duly amended by Notification No.25/2002-CE, based on mere certificate of use issued by the Rear Admiral of Indian Navy or an officer not in rank below Joint Secretary to the Government of India. Further, the applicant has referred to the following 4 purchase orders received by them from the Navy but have submitted: (a) photocopies in respect of the purchase orders mentioned at Sr.No.(i) below and soft copies of purchase orders mentioned at Sr.Nos.(ii) and (iii) below (b) photocopies of a few pages of contract in respect of purchase order mentioned at Sr.No. (i) below and soft copies of contract in respect of purchase orders mentioned at Sr.Nos. (ii) and (iii)below. Also, they have submitted photocopy of End Use Certificate in respect of Purchase Order dated 26.03.2019 (Sr.No.(i) below) only.

- (i) Purchase Order No.HLC/85/PT-10((32 Types)/S4*/225 dated 26.03.2019) pertains to supply of 32 types of Pressure Tight (PT-10) cables for S4* valued at Rs.25,61,99,931/-.
- (ii) Purchase Order No.PT-45: PO No.HLC/85/PI-45(05 Types)/S4*/228 dated 22.04.2019 pertains to supply of 10 types of Pressure tight (PT)-45 cables for S4* valued at Rs.3,73,39,773/-.
- (iii) Purchase Order Special Cable HLC/85/SPL-CABLES(09 Types)/S4*/237 dated 17.06.2019 pertains to supply of 09 types of special cables for S4* valued at Rs.5,09,36,750/-.
- (iv) Tender No.NPT Cable:HLC/85/NPT CABLES/S4* dated 6.5.2019 (Order Expected).

12. 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 marine-pressure tight and non-pressure tight cables manufactured and designed by the applicant are for use by the Ministry of Defence in their warship as parts of warship as stated by the applicant and whether the concessional rate of GST@5% is available to the applicant as per Entries No.250 and 252 of Schedule-I of the Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017.

13. We have gone through the Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017, it is seen that Entry No.250 which appears in Schedule-I of the said notification represents “Other vessels, including warships and lifeboats other than rowing boats” and against this entry, the rate of GST prescribed under the heading 8906 is 5%. Further, Entry No.252 of Schedule-I represents “Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907”, and against this entry, the rate of GST under this heading is 5%. The same reads as under:

Schedule-I

Sr.No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of goods
250.	8906	Other vessels, including warships and lifeboats other than rowing boats.
252.	Any chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907.

14. To deal with the limited issue before us i.e. to find out whether the marine pressure tight cables and marine non-pressure tight cables used by the applicant are parts of a warship, we first of all need to examine as to what are 'Parts'. We find that the word 'Part/Parts' has not been defined in GST nor was it defined in Central Excise earlier. We are therefore required to understand the general meaning of the said words which is of relevance to us in the present case. As per Cambridge English Dictionary, 'Part' is defined as under:

(i) "a separate piece of something or a piece that combines with other pieces to form the whole of something".

(ii) "One of the pieces that together form a machine or some type of equipment".

15. In view of the above meanings of part/parts, we will be required to examine as to what are the parts of headings 8901, 8902, 8904, 8905, 8906 and 8907 and whether the subject goods as mentioned by the applicant can be taken to be covered under the meaning of parts for Entry No.252 of Schedule-I of Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017. As per data available online, we find that items like Anchor, Bow, Bowsprit, Bow Thrusters, Fore and Aft, Ship's Hull, Keel, Mast, Rigging, Rudder, Sails, Shrouds, Engines, gearbox, Propellor, Funnel, Navigation Bridge, Deck, Deck Crane, Forecastle etc. are very essential parts of a ship or vessel and are quite clearly parts of a vessel/ship and a ship cannot be imagined to be in existence without these parts i.e. the ship/vessel would not be complete without these parts. However, in addition to the above, there are some additional equipments, which are required to be made available on a ship as a measure of statutory compliances under various marine acts such as Merchant Shipping Act or Additional Safety measures such as Walkie-talkie, Binoculars, Life Jackets, Lifeboats, etc. Although, these are equipments to be compulsorily made available on a vessel and ship but cannot be taken to be essential parts of a ship i.e. the ship would still be a ship without these equipments and would rather be considered as additional equipments on a ship. In addition to the above, there are other items such as furniture, fans air-conditioners, television etc. which are required for the comfort of the officers and crew of the ship but do not come under the essential parts or equipments of a vessel/ship.

16. We find that the essential items that are discussed as essential parts of a ship/vessel are such essential components/parts of a vessel/ship without which the ship/vessel would not be complete and without which the ship would not exist. While referring to the definition of the word 'part', we find that it is a separate piece of something or a piece that combines with other pieces to form the whole of something. Similarly, the second definition of part also defines 'part' as one of the pieces that together forms a machine or some type

of equipment. However, interpreting the issues like the one on hand, we feel the need to refer to certain judgements which can throw light on the issue:

(1) In the case of Saraswati Sugar Mills vs. Commissioner of Central Excise Civil Appeal No.295 of 2003 decided on 2nd August of 2011, Hon'ble Supreme Court of India observed as under:

"12. In order to determine whether a particular article is a component part of another article, the correct test would be to look both at the article which is said to be component part and the completed article and then come to the conclusion whether the first article is a component part of the whole or not. One must first look at the article itself and consider what its uses are and whether its only use or its primary or ordinary use is as the component part of another article. There cannot possibly be any serious dispute that in common parlance, components are items or parts which are used in the manufacture of the final product and without which final product cannot be conceived of.

13. The meaning of the expression 'component' in common parlance is that 'component part of an article is an integral part necessary to the constitution of the whole article and without it, the article will not be complete.

14. This court, in Star Paper Mills (supra) has made a settled distinction while considering whether paper cores are 'components' in the manufacture of paper rolls and manufacture of paper sheets. It is stated that 'paper cores' are component parts in so far as manufacture of roll is concerned, but it is not 'component part' in the manufacture of sheets. It is useful to quote the observations made by this Court.

"Paper core would also be constituent part of paper and would thus fall within the term "component parts" used in the Notification in so far as manufacture of paper in rolls is concerned".

15. In Modi Rubber Ltd. vs. Union of India (1997 7 SCC 13, the appellant had set up tyre and tube manufacturing plant and imported various plants and machineries. While using the plants and machineries, PPLF (Polypropylene Liner Fabric) was used as a device in the form of liner components to various machinery units to protect the rubber-coated tyre fabric from atmospheric moisture and dust. This Court held that the PPLF was not a component of the machine itself. It was not a constituent part. It was used as a Liner Fabric not only in tyre production but also in similar other industrial processes.

(2) In the case of State of Uttar Pradesh vs. M/s. Kores (India) Ltd. on 18.10.1976, Equivalent citations: 1977 AIR 132, 1977 SCR (1) 837.

In this case the appellant contended before the Hon SC that carbon paper does not lose its character as paper in spite of being subjected to chemical processes, and that ribbon is not an accessory but an essential part of the typewriter. While dismissing the appeal, Court held that *"A word which is not defined in an enactment has to be understood in its popular and commercial sense with reference to the context in which it occurs."*

The Hon SC further observed that *"Bearing in mind the ratio of the above mentioned decisions, it is quite clear that the mere fact that the word 'paper' forms part of the denomination of a specialized article is not decisive of the question whether the article is paper as generally understood, the word 'paper' in the common parlance or in the commercial sense means paper which is used for printing, writing or packing purposes. We are, therefore, clear of opinion that Carbon paper is not proper as envisaged by entry 2 of the aforesaid Notification. Regarding ribbon also to which the above mentioned rule construction equally applies, we have no manner of doubt that it is an accessory and not a part of the typewriter (unlike spool) though it may not be possible to use the latter without the former, just as aviation petrol is not a part of the aero-plane nor diesel is a part of a bus in the same way, ribbon is not a part of the typewriter though it may not be possible to type out any matter without it.*

The very same question with which we are here confronted came up for decision before the High Court of Mysore in State of Mysore vs. Kores(India) Ltd.(26STC87)(1) where it was held:

Whether a typewriter ribbon is a part of a typewriter is to be considered in the light of which is meant by a typewriter in the commercial sense. Typewriters are being sold in the market without the typewriter ribbons and therefore typewriter ribbon is not an essential part of a typewriter so as to attract tax as per entry 18 of the Second Schedule to the Mysore Sales Tax Act, 1957.”

17. In light of the above discussion, considering the meaning of an expression ‘Part’ as given in the dictionary and also the ratio as adopted by the decisions by Hon’ble Courts as mentioned above besides common parlance test, we are required to find out whether the marine pressure tight cables and marine non-pressure tight cables manufactured and supplied by the applicant can be considered as parts of a warship. The classification of these goods under Entry No.252 of Schedule-I of Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 is solely dependent on the nature of use to which these goods are put to in order to be able to decide as to whether these goods are integral parts of the ships without which the ship would not be complete or would not exist.

18. We have gone through the submission of the applicant, the documents submitted by them along with their submission as well as the additional documents submitted by them (received through email on 25.08.2020). We agree that there is a provision available in Entry No.252 of Schedule-I of Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 for reduced rate of GST of 5% for the parts used in ships/vessels of headings 8901, 8902, 8904, 8905, 8906, 8907. We have also gone through Notification No.64/95-CE dated 16.03.1995 of the pre-GST regime (which has been referred to by the applicant) and find that there was a provision therein where full exemption could be availed on all the goods supplied to the Navy or Ministry of Defence based on certificate of use issued by the Rear Admiral of Indian Navy or an officer not in rank below Joint Secretary to the Government of India. The relevant portion of the said notification reads as under:

Sr.No.	Description of goods	Conditions
21.	All goods	If (a)The said goods are supplied for use in construction of warships of the Indian Navy or Coast Guard; and (b)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.

19. A plain reading of the above entry shows that exemption from Central excise duty was available only to those goods which were supplied for use in the construction of Warships of the Indian Navy or the Coast Guards. No such exemption was available to goods which were used as parts of warship. However, it is seen that there is no such similar provision available in the GST regime i.e. nowhere is it envisaged in the Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 that the benefit of reduced rate of 5% GST as per Schedule-I of the aforementioned notification is available on the basis of a certificate issued by an officer of the level of Rear Admiral of Navy or an officer

not in rank below Joint Secretary to the Government of India stating that certain goods are to be used in warship. We find that in order to avail of the benefit of reduced rate of GST as mentioned hereinabove, the applicant has to prove that the goods manufactured and supplied by them to the Navy are an integral part of the warship and are goods without which the warship would not come into being, or would not be complete or would not come into existence. The applicant has claimed that the marine pressure tight and marine non-pressure tight cables manufactured and supplied by them are very essential and integral part of the warship, without which warship cannot function and cannot be completed and at the same time the said goods supplied and used in the warship are capable of being separated as such for the purpose of repairs and replacement. However, they have not submitted any details with regard to these goods, which are essential to prove that the subject goods are integral parts of the warship such as: (i) the definition of marine pressure tight cables and non-pressure tight cables (ii) in which part of the warship they are used. (iii) do they constitute parts which can be used solely in warships? (iv) what are the uses of these cables i.e. what is the purpose they serve. (v) the reason why these cables can be considered to be so essential or so integral a part of a warship, without which the warship would not come into existence or would not be complete. In the absence of these details, it would not be possible for us to decide whether the subject goods are parts of warship or otherwise. In fact, we will be left with no option but to make a decision based on the records available with us as well as on the merits of the case. Further, it is also not forthcoming from the documents i.e. Purchase orders/contracts etc. submitted by the applicant as to how the subject goods are an essential or integral part of the warships without which a warship would not come into existence or be complete. We have also gone through the photocopy of the End Use Certificate issued by the Rear Admiral and Director of DMD Establishment, P.O.Box No.2043, Secunderabad vide File F.No.HLC/85/PT-10 Cables(32 Types/S4* dated 11.06.2019 which reads as under:

“1. Refer to DMDE Purchase Order No.HLC/85/PT-10 (32 Types)/S4/225 dated 26th March, 2019 placed on M/s. Apar Industries (M/s. Apar Industries Ltd. (A Unit Uniflex Cables) Survey No.82/2/P1, 88,861/1, 862/1 & 863/1, Manekpur Road, Khatalwada, Tal:Umbergaon, Walsad(Dist.), Gujarat, Pin Code:396120.) by this establishment for supply of 32 types of Pressure Tight (PT)-10 cables for S4*.*

2. GST is applicable @5% for goods intended for Warship application vide Sl.s.250 and 252 of Schedule-I of Notification No.01/2017-Integrated Tax (Rate) dated 28th June, 2017 issued by the Department of Revenue, Ministry of Finance, Government of India.

3. It is certified that the goods being procured vide DMDE Purchase Order mentioned at Para ‘1’ above are in line with stipulations mentioned at Para ‘2’ above and hence GST is applicable @5% for goods for Purchase order ibid.”

20. On going through the above, we find that although there is an indirect reference to Entries No.250 and 252 of Schedule-I of the Notification No.01/2017-Integrated Tax (Rate) dated 28th June, 2017 in para-2 which states that “GST is applicable @5% for goods intended for Warship application vide Sl.s.250 and 252 of Schedule-I of Notification No.01/2017-Integrated Tax (Rate) dated 28th June, 2017”, there is no specific mention in the said certificate to the effect that the subject goods are integral parts of warship without which the warship would not come into existence or would not be completed. Also, as discussed earlier, there is no such provision envisaged in Notification No.01/2017-Integrated Tax (Rate) dated 28th June, 2017, which states that the benefit of reduced rate of GST of 5% is available to goods used in a warship on the basis of a End Use Certificate issued by the Rear Admiral of the Navy stating that

they are used as parts of a warship. Even otherwise, as discussed earlier, the essential and integral parts of a ship are Anchor, Bow, Bowsprit, Bow Thrusters, Fore and Aft, Ship's Hull, Keel, Mast, Rigging, Rudder, Sails, Shrouds, Engines, gearbox, Propellor, Funnel, Navigation Bridge, Deck, Deck Crane, Forecastle etc. i.e. they are the parts so essential or integral to a ship or vessel without which a ship cannot be imagined to be a ship or to be in existence or be complete and marine pressure tight cables and non-pressure tight cables are excluded from this list. In view of the above facts and discussions, we find that the applicant has failed to prove their claim that the marine pressure tight cables and marine non-pressure tight cables manufactured and supplied by them are integral parts of warship without which the warship would not come into existence or would not be complete. We, therefore, conclude that the marine pressure tight cables and the marine non-pressure tight cables manufactured and supplied by the applicant to the Navy are not parts of the warship and hence the benefit of reduced rate of GST of 5% is not available to the applicant as per Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017.

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

R U L I N G

Question: Whether the applicability or determination of liability to pay Tax on our said goods at 5% GST rate is legally correct and in order in terms of Schedule-I of Notification No.1/2017-Integrated Tax(Rate) or not?"

Answer: The applicant M/s. Apar Industries limited, Valsad is not eligible to avail the benefit of GST @5% applicable as per Entries 250 and 252 of Schedule-I of Notification No.01/2017-Integrated Tax (Rate) dated 28th June, 2017 for the reasons discussed hereinabove.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 17.09.2020.