

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI – 600 003.
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Tmt K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No. 07 /AAR/2022 DATED: 28.02.2022

GSTIN Number, if any / User id		33AACT50090G1ZS
Legal Name of Applicant		SOUTH INDIAN FEDERATION OF FISHERMEN SOCIETIES
Registered Address/Address provided while obtaining user id		5-20A, SIFFS BOATYARD, ENIA NAGAR, ENAYAM, VILAVANCODE TALUK, KANYAKUMARI, TAMILNADU-629193
Details of Application		GST ARA- 01 Application Sl.No. 35/2021/ARA dated: 12.10.2021
Concerned Officer		Centre: MADURAI Commissionerate State: The Assistant Commissioner(ST), Kuzhithurai Assessment circle.
Nature of activity(s) (proposed / present). in respect of which advance ruling sought		
A	Category	Manufacture and Service provision
B	Description (in Brief)	The applicant is a Charitable Society formed under the Travancore-Cochin Literacy Scientific and Charitable Societies Registration Act, 1955. They are engaged in undertaking various welfare activities for the poor fisherman in South India for the last forty years. They provide the fishermen necessary fishing requisites at concessional rate.

Issue/s on which advance ruling required	Classification of goods
Question(s) on which advance ruling is required	<ol style="list-style-type: none"> 1. Rate of tax on Marine Engines coming under HSN Code 8407 and its spare parts exclusively used as part of fishing vessel of heading 8902 2. Whether GST leviable on supply of materials and labour charges incurred during the warranty period, free of cost 3. Rate of tax applicable for collection made towards supply of materials and labour charges towards repair of fishing vessel of heading 8902 4. Rate of tax on puff insulated ice boxes used by fishermen in fishing vessels for reducing spoilage and maintaining good hygiene. 5. Rate of tax on marine engine coming under HSN Code 8407 supplied to Defence Department for patrol, flood relief and rescue operations.

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

SOUTH INDIAN FEDERATION OF FISHERMEN SOCIETIES, 5-20A, SIFFS BOATYARD, ENIA NAGAR, ENAYAM, VILAVANCODE TALUK, KANYAKUMARI, TAMILNADU-629193 (hereinafter called the Applicant) are registered under GST with GSTIN33AACT50090G1ZS. The applicant has sought Advance Ruling on the following questions:

1. Rate of tax on Marine Engines coming under HSN Code 8407 and its spare parts exclusively used as part of fishing vessel of heading 8902
2. Whether GST leviable on supply of materials and labour charges incurred during the warranty period, free of cost
3. Rate of tax applicable for collection made towards supply of materials and labour charges towards repair of fishing vessel of heading 8902
4. Rate of tax on puff insulated ice boxes used by fishermen in fishing vessels for reducing spoilage and maintaining good hygiene.
5. Rate of tax on marine engine coming under HSN Code 8407 supplied to Defence Department for patrol, flood relief and rescue operations.

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they are a Charitable Society formed under the Travancore-Cochin Literacy Scientific and Charitable Societies Registration Act, 1955. This Society is engaged in undertaking various welfare activities for the poor fisherman in South India for the last forty years. They provide the fishermen necessary fishing requisites at concessional rate. Fishing boats and Ice boxes are manufactured by them while Marine engines for fishing vessels are imported from outside India. They have stated that they are the apex body of several fishermen societies and their activities are spread throughout South India. The applicant's head office is at Trivandrum and branches in various parts of Tamilnadu and Karnataka. All these branches are having separate registration under the GST Act in the respective States, the Head office in Trivandrum is manufacturing as well as procuring the fishing requisites in large quantities from various places and also importing from abroad. These items are subsequently transferred to their Branches in various places in South India for supply to the fishermen. They have stated that the fishing community is one of most backward and vulnerable community in India and currently struggling to cope up with the limited income due to decline in fish catch for several reasons including climate change and natural disasters.

2.2 On interpretation of law the applicant has stated that Rate of tax on Marine Engines (HSN 8407) as such is taxable at the rate of 28% being an item coming within Customs Tariff Heading 8407 21 00. 'Outboard Motors- Marine Propulsion Engines-Spark-ignition reciprocating or rotary internal combustion piston engines' coming within entry serial no.114 of Schedule IV of Notification No.01/2017 Central

Tax (Rate) dated 28.06.2017. However, as per entry 252 of Schedule I of Notification No. 01/2017 Central (Rate) dated 28.06.2017 parts of goods of headings 8901, 8902, 8904, 8905, 8906 and 8907 falling under any chapter of the Customs Tariff attracts GST at the rate of 5%. Therefore, if the marine engines are supplied for use as part of fishing vessel falling under Customs Tariff Heading 8902 (Serial No. 247 of schedule I of Notification No. 01/2017 Central (Rate) dated 28.06.2017 then the marine engine as part of fishing vessel will attract GST at the rate of 5% only. Further, this issue was clarified by CBIC vide Circular No.52/26/2018-GST dated 09/08/2018. The applicant has extracted the relevant portion of the clarification as below:

“10.1 Applicability of GST on marine engine: It is clarified that supply of marine engine for fishing vessel falling under Tariff item 8408 10 93 of the Customs Tariff Act, 1975 would attract GST rate 5% by virtue of S.No. 252 of Schedule I of the Notification No.01/2017 Central Tax (rate) dated 28.06.2017.”

The applicant has stated that their product is also marine engine exclusively used by poor fishermen on fishing vessels of HSN 8902. Hence, they have contended that the above Circular is directly applicable in their case.

2.3 The applicant has stated that they are giving six months warranty on fishing vessels sold to the customers. Under this warranty period, fishing vessels are repaired free of cost. In other words, the applicant is not collecting any consideration against the supply of goods and services during warranty period, from the purchasers of fishing vessel. Since there is no consideration for the supply, no GST is payable by the applicant on this transaction. Value of materials to be supplied and services to be provided during warranty period are also taken in to account and included in sale price, on which GST is duly paid. The consideration received on original supply of fishing vessels includes the consideration for the promise to repair or replace the machines during Warranty period, without any additional charge. Hence, there is no GST payable on the deemed value of supply made during warranty period free of cost. They have also stated that for the repair work undertaken on fishing vessels and engines after warranty period, they are raising invoice for the value of spares transferred and for value of goods transferred and service rendered to the customers. In the invoice issued to customers, value of goods transferred and service charges are separately

shown. They have stated that this supply is to be treated as 'composite supply' and since the dominant element is replacement of defective parts, rate of tax applicable to fishing vessels, engines and spare parts (5%) is to be applicable for the entire consideration charged by them. They have also submitted that the supply may be bifurcated as supply of goods and supply of services and separate rate applicable to each may be applied. They have relied on the CBIC Circular No.47/21/2018-GST dated 08.06.2018, which deals with servicing of Cars. In this circular, it is clarified that "where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately". In view of this Clarification, spare parts supplied for use as part of fishing vessels will attract GST at the rate of 5% as per Entry No. 252 of Schedule 1 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 and service will be liable to GST at the rate of 18% as per serial No. 25(ii) - Maintenance, Repair and Installation (Except Construction) Services (Heading 9987)- of the Notification No. 11/2017 Central Tax. (Rate) dated 28.06.2017. They have also submitted that they are supplying puff insulated ice boxes manufactured by them to the fishermen for use in reducing spoilage of fish. The ice boxes supplied by them are specifically manufactured for use in Fishing vessels for storage of fish to reduce spoilage and hence this item is to be treated as part of fishing vessels and to be charged at 5% GST as per Entry No. 252 of Schedule No. 01/2017 Central Tax (Rate) dated 28.06.2017. They have also stated that this item will not come within Sl. No 108 of Schedule III of Notification 01/2017 CT (rate) - Articles for: the conveyance or packing of goods, of plastics: stoppers, lids, caps and other closures, of plastic, attracting 18% GST under CTH3923. They have stated that the puff insulated ice boxes are not packing material or just article for conveyance of goods. The primary intention of ice boxes is to keep the fish fresh without spoilage. Further, they have stated that they are also supplying marine engines to Defence Department for patrol, flood relief and rescue operations, This supply will come within Customs Tariff heading 8906 - 'other. Vessels including war ships and life boats other than rowing boats.' As per Entry No. 252 of Schedule I of Notification No. 01/2017 Central (Rate) dated 28.06.2017, parts of goods of headings 8901, 8902, 8904, 8905, 8906 and 8907 falling under any chapter of the Customs Tariff attracts GST at the rate of 5%. Therefore, they have contended that the marine engines supplied for use as part of Warship and Life boats falling under

Customs Tariff Heading 8906 (Serial No. 250 of Schedule I of Notification No. 01/2017 Central (Rate) will attract GST at the rate of 5% only.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 21.12.2021. The Authorised Representative Shri.John Bosco.A appeared for the hearing and reiterated the submissions. The Member asked the AR to explain the following:

i. what ruling is expected from the authority in this scenario as the CBIC Circular no.52/26/2018-GST dated 09.08.2018 is clear about the rate applicable for Marine engines when supplied for fishing vessels. The AR replied that they want to ensure that 5% is applicable to their products to get a better market share.

ii. Whether puff insulated boxes are being rented or sold and when the rate is specified in tariff why is this question raised.

The AR replied that the puff insulated boxes are used for preserving fish in the fishing vessels so they request that 5% tax is applied based on the purpose for which it is used.

iii. Is any consideration collected during the period of warranty and do they have any warranty agreement.

The AR replied that no consideration is collected during warranty period and they do have agreements.

The AR further raised a question about the modality of taxation in respect of Marine Engines sold by their Kerala office to the Tamilnadu office. The Member observed that this is a new question raised now which has not been preferred in their application for Advance Ruling. The AR was asked to furnish the following documents:

i. Documentary evidence for supply of marine engine and its spare parts referred at Qn.1 i.e., purchase orders received by them/tax invoice raised by them.

ii.. Work order/warranty certificate issued in respect of Qn.2, List of materials used, Documentation for accounting of such materials/labour charges, copy of accounts statement to establish the same.

iii. Documents through which service charges are raised for repairing of fishing vessels and marine engines i.,e copy of Purchase order/Work order in respect of such transactions along with a write up on how the transaction is accounted in their books.

- iv. Write up on Puff insulated ice boxes for which the tax rate is asked for- whether such boxes have to be used only in the fishing vessels or can be used as stand alone. If so, the reasons for claiming it under entry no.252.
- v. The principal place of business declared is SIFFS Boatyard, Enayam, Vilavancode Taluk, Kanyakumari and the additional place of business is at ECR Road, Villupuram District. However, in the invoice copies submitted, it is observed that the tax invoice for sale of spares has been issued from Shop no.24/3A1 at Nagapattinam. They were asked to clarify as to which is the additional place of business declared by them and how do they operate from an address at Nagapattinam. They were also asked to clarify from which places their sales is effected and a copy of invoice issued /purchase order from each such place of sale effected to fishermen, defense department etc may be furnished.
- vi. Tax invoices and practice followed during pre-GST and GST regime.
- vii. Whether returns have been filed.

3.2 The applicant vide their letter (received on 13.01.2022) submitted the following documents/facts.

1. Copies of tax invoice No. OKP21/1 DT 04/05/2021 & SKP21/47 DT 27/10/2021 -documentary evidence for supply of marine engines and spare parts
2. Warranty card
3. Warranty bill No. BTP20/R274 DT 02/01/2021 -showing the list of materials and service charges incurred during warranty work and accounting entries in the Tally against the warranty bill mentioned.
4. Accounting entry for warranty repair
5. GST Registration certificate
6. Copy of Tax invoice No.SEP21/680 & SVV21/1192 DT 30/11/2021
7. Copy of Tax invoice No.SPZ21/117 DT 26/11/21 & SDM21/358 DT 29/11/21
8. Copy of Tax invoice No.SKP21/54 DT 26/11/21 & SMT21/266 DT 30/11/21
9. Copy of Tax invoice No. SCL21/225 DT 30/11/21 & BEY21/14 DT 14/10/21
10. Copy of Tax invoice No. BTP21/50 DT 05/11/21 & BVV21/7 DT 20/11/21
11. Copy of Tax invoice No.29 DT 08/04/17, 251 DT 27/09/16, 2701 DT 17/09/16
12. Copy of GSTR1 & GSTR3B Nov 2021

The applicant has submitted the following facts:

- i. Tax invoice is a main document through which service charges are collected against the repair work of fishing vessels and marine engines using as a part of fishing vessels. When a fishing vessel or Marine engine is brought into their premises for repair works, all types of maintenance works required would be carried

out to make the fishing vessel or marine engines in working condition. Sometimes it costs only labour charges or in some other cases both labour and spare parts or materials depending on the nature of repair. After completing the repair, they will issue repair invoice against the payment received. Each item including labour charges incurred on that repair work along with their respective tax rate will be shown separately in the repair tax invoice and accounted as sales or service charge income as the case may be.

ii. Fish is a perishable item and therefore it is very much essential that it should be kept in Insulated iceboxes at the source itself to prevent decay over time. The use of insulated ice boxes are very common and it will be carried in fishing vessels as its component. Insulated ice boxes for fish are the containers made from fibre glass materials and PUF will be used as insulating material between layers. The use of ice boxes also promotes hygienic handling of fish and this will also fetch good prices to fishermen. Hence, they have requested to consider these insulated ice boxes used in the fishing vessel to store fish as parts of fishing vessels under entry No. 252.

iii. The applicant has fifteen additional branches registered in Tamilnadu state. Last year, they have relocated a branch functioned at Vedaranyam (listed in serial number 5 under branch details as per GST registration certificate) in Nagapattinam district to Nagapattinam Puthur area Shop No. 24/3A1. Due to the impact of Covid 19 and the related restrictions, registration updation process with GST could not be completed in time. Though the updation processes were initiated on 09/07/2021, they were not able to complete it because of a validation error in the name of members of their board. They are still in the process of rectification of these issues to update the registration of relocated business branch before GST department. They have furnished GST registration certificate with additional business places and the copies of some tax invoices issued from their business places to fishermen customers. Further, the applicant vide their letter dated 13.01.2022 has submitted the amended GST registration certificate.

4. The Centre Jurisdictional authority who has administrative control over the applicant has stated that there are no pending proceedings on the issue raised by the applicant in the Advance Ruling application and has submitted the following comments on the issue raised in the application.

- In respect of the rate of tax on Marine Engines coming under HSN code 8407 and its spare parts exclusively used as part of fishing vessels, it appears that these items are covered vide Sl. No. 252 of Notification No. 1/2017 Central

Tax (Rate) dated 28.06.2017, GST @ rate of 5 % is applicable. Further, it is submitted that this fact is clarified by Board's Circular No. 52/26/2018 GST dated 09.08.2018 in para 10.2.

- In respect of leviability of GST on the supply of materials and labour charges during the warranty period, which is rendered free of cost, separate consideration is not received by the supplier for supply of materials or labour charges, undertaken during the warranty period, it appears that supply of goods or services or both during warranty period without any other consideration, is not liable for GST.
- In respect of charges for supply of materials and labour towards repair of fishing vessel, it appears that classification and rate of GST depend upon the nature of the contract. Further, if spares and labour are charged separately, it appears that GST applicable will be at the respective rates. However, if it is considered as a bundled service in the contract, it appears that the supply has to be treated as Maintenance or Repair Service and GST has to be levied on the same.
- In respect of the rate of tax on puff insulated ice boxes used by fishermen in the vessels for reducing spoilage, it appears that ice boxes may not be considered as part of the fishing vessel and hence the concessional rate of GST applicable to the marine engines, envisaged under Notification No. 1/2017 may not be extended to ice boxes.
- In respect of tax on marine engines supplied to Defence for patrol, flood relief and rescue operations, if the marine engines are used for the specified purposes, then it appears that they are eligible for availing the concessional rate of tax under Sl. No. 252 of Notification No. 1/2017. Besides, there are no pending proceedings against the said applicant in respect of this sub Commissionerate

5. The State Jurisdictional authority has stated that there are no pending proceedings in the applicant's case.

6. We have considered the application filed by the applicant and various submissions made by them as well as the comments of the State and Central Tax officers. Applicant is a Charitable Society formed under the Travancore-Cochin Literacy Scientific and Charitable Societies Registration Act, 1955, engaged in undertaking various welfare activities for the poor fishermen in South India for the last forty years. They have been manufacturing Fishing boats and ice boxes, importing Marine engines for fishing vessels from outside India and providing the

fishing requisites at concessional rates to the fishermen,. The applicant has sought Advance Ruling on the following questions:

1. Rate of tax on Marine Engines coming under HSN Code 8407 and its spare parts exclusively used as part of fishing vessel of heading 8902
2. Whether GST leviable on supply of materials and labour charges incurred during the warranty period, free of cost
3. Rate of tax applicable for collection made towards supply of materials and labour charges towards repair of fishing vessel of heading 8902
4. Rate of tax on puff insulated ice boxes used by fishermen in fishing vessels for reducing spoilage and maintaining good hygiene.
5. Rate of tax on marine engine coming under HSN Code 8407 supplied to Defence Department for patrol, flood relief and rescue operations.

The questions on which ruling is sought is about the classification of Marine engines supplied by the applicant to fishing vessels and to Defence department; rate of tax on marine engines and Puff insulated boxes and the applicability of GST rate as per the entry of schedule I, Sl.no.252 of Notification No.01/2017 dt. 28.06.2017. Hence the application is found admissible under Section 97 (2) of the CGST Act, 2017.

7.1 The question of rate of tax on Marine engines coming under HSN code 8407 and its spare parts exclusively used as part of fishing vessel of heading 8902 is taken up for discussion. Applicant has submitted that they sell the outboard motors imported to the fishermen at concessional rate and has sought if the general tax rate of 5% for marine engines as specified in the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, this engine forming a part of fishing vessel of HS code 8902 is applicable to the goods so cleared. They have also stated that Para 10.1 of Circular no.52/26/2018-GST dt.09.08.2018 clarifies that the marine engine attracts 5% GST being part of fishing vessels.

7.2 The clarification sought is whether the rate prescribed under Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017 as amended is applicable to the Applicant. The said entry is as below:

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

The said entry is applicable to goods falling under any chapter, provided the same is 'Parts' of goods of heading

- 8901- Cruise Ships, Excursion Boats , Ferry-Boats, Cargo Ships, Barges And Similar Vessels For The Transport Of Persons Or Goods;
- 8902 - Fishing Vessels; Factory Ships And Other Vessels For Processing Or Preserving Fishery Products;
- 8904- Tugs And Pusher Craft;
- 8905- 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;
- 8906- Other Vessels, Including Warships And Lifeboats Other Than Rowing Boats;
- 8907- Other Floating Structures (For Example, Rafts, Tanks, Cofferdams, Landing-Stages, Buoys and Beacons).

From the above tariff headings, it is clear that the rate is applicable based on the end use of these engines i.e., if they become part of fishing vessels or other vessels including warships and life boats other than rowing boats. Thus the rate of tax at 5% is based on the end use these engines are put to and is available only for the vessels defined as above.

7.3 Applicant has relied on Para 10.1 of Circular no.52/26/2018-GST dt. 09.08.2018 is reproduced as under:

"10.1 Applicability of GST on marine engine: Reference has been received seeking clarification regarding GST rates on Marine Engine. The fishing vessels are classifiable under heading 8902, and attract GST @ 5%, as per S. No. 247 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017. Further, parts of goods of heading 8902, falling under any chapter also attracts GST rate of 5%, vide S. No. 252 of Schedule I of the said notification. The Marine engine for fishing vessel falling under Tariff item 8408 1093 of the Customs Tariff Act, 1975 would attract a GST rate of 5% by virtue of S. No. 252 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017.

10.2 Therefore, it is clarified that the supplies of marine engine for fishing vessel (being a part of the fishing vessel), falling under tariff item 8408 10 93 attracts 5% GST."

It is found that the circular further clarifies that the marine engines falling under tariff item 8408 would attract 5% GST only when it is supplied for fishing vessels. Thus it is seen that the rate would be applicable based on end use only. Hence it becomes imperative that the end use of such engines should be established to avail

the reduced rate of GST. Applicant has submitted that the outboard motors they supply are fitted in fishing vessels. Applicant has submitted a tax invoice issued by their Tirunelveli workshop and service centre vide Invoice no. OKP21/1 dt. 04.05.2021 wherein 1 no of Suzuki (2 stroke Kerosene Operated OBM)- HSN8407 has been sold. From the invoice submitted, it is seen that the OBM has been supplied to an individual and the HSN adopted is 8407. As per entry at Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017, parts of goods of headings 8901,8902,8904,8906,8907 falling under any chapter of the customs Tariff attracts GST @5%. Therefore if the marine engines supplied for use as part of vessel falling under tariff heading 8902, which are used by the fishermen, then such engines as part of such vessels will only attract GST at the rate of 5% as per the above entry.

7.4 The applicant has also come up for ruling on spare parts exclusively used as part of fishing vessel of heading 8902. In this connection, the applicant along with the application has not provided any list of spares for which the ruling is sought. The applicant was specifically asked to provide such details during the hearing. Applicant vide their letter SIF/K/15/46482 received on 13.01.2022 have furnished tax invoice No. SKP21/47 dt. 27.10.2021 raised by their branch. This invoice includes details of the labour charges and various part nos. The respective HSN/SAC are mentioned against labour charges and the parts. Thus it is seen that though the applicant furnished this tax invoice to substantiate spares sales, the invoice reflects supply of services also. Apart from this tax invoice, the applicant has not furnished any document for only spares sales. Entry Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017 applies only to parts of goods of heading falling under any chapter when it is a part of goods falling under heading 8902. As the applicant has not produced documents establishing details of spare sales, this authority is constrained to ascertain whether the spares supplied are parts of goods of vessels falling under chapter 8902. In this scenario, for want of documentary substantiation, no ruling is offered with respect to spares.

8.1 The next question taken up for consideration is whether GST is leviable on supply of materials and labour charges incurred during the warranty period, free of cost. Applicant has submitted a copy of the warranty card issued and warranty bill no.BTP20/R274 dt. 02.02.2021 and the corresponding entry in their TALLY against the warranty bill. From the above documents, it is seen that the warranty is issued for 6 months subject to satisfaction of certain terms and conditions. The tally entry

shows that the warranty repair has been offset by credit entry from Repair Debtors which shows that no amount has come into the account of the applicant and that the provision for Repair has been debited. Thus the documentary proof shows that the repairs are done free of cost during the warranty period. Further they have stated that the value of materials to be supplied and service provided during warranty period are taken into account and included in the sale price on which GST has been duly paid. The applicant has submitted that consideration received on original supply of fishing vessels includes the consideration for the promise to repair or replace the machines during warranty period without any additional charge. As parts are provided to the customer without a consideration under warranty, no GST is chargeable on such replacement. The value of supply made earlier includes the charges to be incurred during the warranty period. Therefore the replacement of the goods and service rendered during the warranty period **without consideration** does not attract GST separately. The warranty card issued by the applicant has a condition that during the time of repair, transportation expenses and all other expenses have to be borne by the boat owner. If such cost are incurred by the applicant on behalf of the boat owner and is combined with warranty charges, taxes are applicable. Hence in cases where warranty services are rendered exclusively without combining any other service charges or incidental expenses incurred while rendering the warranty services, only will not attract GST.

8.2 Applicant has further come up for ruling on the rate of tax applicable for collection made towards supply of materials and labour charges towards repair of fishing vessels of heading 8902, after the warranty period. In this regard, they have stated that after warranty period, they are raising invoice for the value of spares transferred and service rendered to the customers, wherein they show the value of goods and service charges separately and the same should be treated as composite supply and the dominant element is replacement of defective parts. Hence the rate of tax applicable to fishing vessels, engines and spares parts namely 5% is applicable for entire consideration charged by them. They have submitted copies of invoices as listed below:

Sl.No	Invoice no/Dt		Details		
			HSN	Duty	Labour charges
		Spares			
1	SEP21/680 dt.30.11.2021	Mount UPR	8409	28%	NIL
2	SVV21/1192dt. 30.11.2021	Bush steering, spacer Big 9.9, Spacer Sterp, Inspection cover	8409	28%	Discharged at 18%GST
3	SPZ21/117 dt.26.11.2021	Fuel water separator. 4T 10w30 MAS-SY, Gear, Plug spark, NGK BBHS 10	8421, 2710, 8511	18% and 28%	18%
4	SDM21/358 dt. 29.11.2021	Filter engine oil, Gasket Drain plug	8421, 4016	18% and 28%	Nil
5	SKP21/54 dt. 26.11.2021	Impeller, water pump	8413	28%	18%
6	SMT21/266 dt. 30.11.2021	Plug Spark, Fibre washer	8511, 8409	28%	NIL
7	SCL21/225 dt. 30.11.2021	Cable Assy. Throttle	8409	28%	18%

From the above invoices, it is seen that the spares and labour charges are treated as separate transactions and have been taxed at the appropriate rates. To decide on the nature of activity supplied, if composite or not, the terms of such activity should be known. That is, it should be made clear if the activity of rendering repair or maintenance services of fishing vessels/boats etc involves supply of both goods/spare parts and services in conjunction and are naturally bundled with each other in the ordinary course of business to be treated as composite supply. This fact can be ascertained only from the contract entered into for rendering such service. In the instant case, applicant has not submitted any such contract for reference. However they have relied on the CBIC Circular No. 47/21/2018 - GST dated 08.06.2018 which provides as follows:

"2. How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?"

2.1 The taxability of supply would, have to be determined on a case to case basis looking at the facts and circumstances of each case.

2.2 Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately."

8.3 From the above circular, it is seen that the taxability of supply would have to be determined on a case to case basis based on the facts and circumstances of each case, for which the details of supply so rendered will have to be considered. The applicant has neither produced any copy of the contract nor agreement for supply of repair or maintenance service of fishing vessels. From the invoices submitted, it is observed that spares and labour charges have been taxed individually and the nature of supply, whether the predominant supply is service or replacement of spares cannot be established. As the contract/agreement which would throw light on the nature of supply, predominant supply etc is not furnished and the invoices are unable to establish the nature of such repair work done after the warranty period, this authority is constrained to ascertain the nature of the supply of repair or maintenance services rendered by the applicant as to whether it is a composite supply or it provides for the supply of spare parts and services (labour) as distinct and separately identifiable supplies. Hence no ruling cannot be extended in this regard.

9.1 The question of rate of tax on puff insulated ice boxes used by fishermen in fishing vessels for reducing spoilage and maintaining good hygiene has been put forth by the applicant. They have also stated that this item will not come within Sl. No.108 of Schedule III of Notification 01/2017 CT (rate) - Articles for: the conveyance or packing of goods, of plastics: stoppers, lids, caps and other closures, of plastic, attracting 18% GST under CTH3923. Such boxes are said to be used to prevent decay of fish over time and it will be carried in fishing vessels as components. Hence they have requested to consider Puff Insulated ice boxes used in the fishing vessels to store fish as parts of fishing vessels under entry no.252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017.

9.2 To avail the concessional rate of 5% under entry no. 252 cited supra, goods supplied should be part of goods falling under Chapters 8901, 8902, 8904, 8905, 8906, 8907. The subject Puff insulated ice box is only used independently to keep the fish fresh and it does not become a part of the vessels as provided in the notification. Such boxes cannot be considered as part of the vessels and are in no

way connected to the vessels. Their main purpose is to keep the fish fresh and prevent decay and has nothing to do with the vessels or operation of such vessels. Hence the product cannot be considered as a part of fishing vessel falling under Customs Tariff Heading 8902 and hence is not eligible for the concessional rate of GST as per entry at Sl.No.252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017.

10. Applicant has further stated that they are supplying marine engines to Defence department for patrol and flood relief and rescue operations and such engines supplied would also be eligible for GST at the rate of 5% as per no.252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017 under Customs Tariff Heading 8906. Applicant had not filed any documentary evidences along with the application to substantiate that the engines they supply are being used in boats used by defence departments. The applicant has not furnished any purchase orders for supply of engines at present or for proposed supplies. In this scenario, this authority is constrained to pass any ruling on the question raised about eligibility to avail rate of 5% as prescribed at Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017.

11. During PH held on 21.12.2021, the Authorised Representative raised a question about the modality of taxation in respect of Marine Engines sold by their Kerala office to their Tamilnadu office. It was observed that this is a new question raised now which has not been preferred in their application for Advance Ruling and the same cannot be entertained.

12. In view of the above, we rule as under:

RULING


1. Rate of tax on Marine Engines coming under HSN Code 8407, when used as part of boats of HS code 8902 (being used as part of fishing vessels) is 5% GST under Sl.no.252 of Notification no.01/2017CT-Rate dt. 28.06.2017 as amended read with SGST Notification II(2)/CTR/532(d-4)/2017, dated:29.06.2017. In respect of spare parts, no ruling is extended for the reason stated in para7.4 above.

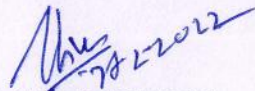
2. Supply of materials and labour while rendering warranty services during the warranty period, free of cost, does not attract GST separately in view of discussions in para 8.1.

3. Ruling in respect of Rate of tax applicable for collection of charges made towards supply of materials and labour towards repair of fishing vessels, of heading 8902, is not extended for reasons mentioned in para 8.3 above.

4. Puff Insulated ice boxes is not a part of fishing vessel falling under Customs Tariff Heading 8902 and hence is not eligible for the concessional rate of GST as per entry at Sl.No.252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017.

5. Ruling in respect of Rate of tax on marine engine coming under HSN Code 8407 supplied to Defence Department for patrol, flood relief and rescue operations is not extended for reasons mentioned in para 10 above


Smt. K.LATHA
Member (SGST)


Shri T.G. VENKATESH
(Member CGST)



To,
SOUTH INDIAN FEDERATION FOR FISHERMEN SOCIETIES
5-20A, SIFFS BOATYARD, ENIA NAGAR, ENAYAM,
VILAVANCODE TALUK, KANYAKUMARI,
TAMILNADU-629193 **// BY SPEED POST WITH ACK.DUE //**

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes/Member,
IInd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & Central Excise, Madurai Commissionerate,
Central Avenue Building, No 4, Lal Bahadur Shastri, Bibikulam,
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4. The Assistant Commissioner (ST) Kuzhithurai Assessment circle,
Commercial Taxes Buildings, Trivandram Road, Kattathurai,
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5. Master File/ Spare – 2.

