

**KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING**  
**6<sup>TH</sup> FLOOR, VANIJYA THERIGE KARYALAYA**  
**KALIDASA ROAD, GANDHINAGAR, BANGALORE 560009**

(Constituted under Section 99 of the Karnataka Goods and Services Tax Act, 2017  
vide Government of Karnataka Order No FD 47 CSL 2017, Bengaluru, dated 25-04-  
2018)

**BEFORE THE BENCH OF**  
**Shri. D.P. NAGENDRA KUMAR, Member**  
**Shri. M.S. SRIKAR, Member**

**ORDER NO:-KAR/AAAR/01/ 2019-20**

**Dated:- 03.04.2019**

Name and address of the appellant	M/s Triveni Turbine Limited 12A, Peenya Industrial Area, Bangalore-560058
GSTIN or User ID	29AAACT4550H1ZA
Advance Ruling Order against which appeal is filed	Advance Ruling No KAR ADRG 28/2018 Dated: 17.11.2018
Date of filing appeal	09.01.2019
Represented by	Shri. Shivadass, Advocate M/s Lakshmikumaran & Sridharan
Jurisdictional Authority – Centre	Commissioner of Central Tax, Bangalore North West Commissionerate, Range DNWD2
Jurisdictional Authority – State	NA
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details.	Yes. Payment of Rs. 20,000/- made vide Challan CIN UTIB18122900370896 dated 27.12.2018

**PROCEEDINGS**

**(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)**

At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act, 2017 and the Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act, 2017 and KGST 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 the corresponding similar provisions under the KGST Act.

The present appeal has been filed under Section 100 of the CGST Act, 2017 and the KGST Act, 2017 by M/s. Triveni Turbine Limited (hereinafter referred to as 'Appellant') against the Advance Ruling No KAR ADRG 28/2018 dated 17-11-2018 pronounced by the Karnataka Authority for Advance Ruling.

### **Brief facts of the case:**

1. The Appellant is a Public Limited Company and is engaged in the manufacture and supply of steam turbine solutions for Industrial Captive and Renewable Power. The appellant manufactures steam turbines upto 100 MW. The Appellant is a manufacturer of steam turbines for providing renewable power solutions specifically, for Biomass, Sugar & Process Co-generation, Waste-to-energy and District Heating.
2. Apart from manufacturing, the Appellant also provides aftermarket services to its customers as well as turbine users of other manufacturers supported by its customer care support, which operates through a network of service centers.
3. The Appellant enters into agreement with their customers for design, manufacture and supply of Steam Turbine Generator Sets and also for commissioning and installation of Steam Turbine Generator sets at the site of the customers. In the course of such supplies, the applicant uses the Steam Turbines manufactured by them, while other components like condenser, Gear box, alternator, AVR panel, etc are procured from outside vendors. In some other agreements, the applicant merely supplies the Turbine Generator sets and supervises the erection, commissioning and installation carried out by contractors engaged by the customers.
4. As a part of Swachh Bharat Mission and to comply with Solid Waste Management Rules, 2016, the Andhra Pradesh Government has been promoting generation of power from Municipal Solid Waste (MSW). In this context, the Andhra Pradesh Government awarded the project for development of MSW Waste-to-energy plants in three clusters in Guntur, Vishakhapatnam and Tirupati districts of Andhra Pradesh to JITF Urban Infrastructure Ltd.
5. For the execution of the projects, the following three companies were incorporated with JITF Urban Infrastructure Ltd as the promoter:
  - i. Jindal Urban Waste Management (Guntur) Ltd
  - ii. Jindal Urban Waste Management (Vishakhapatnam) Ltd
  - iii. Jindal Urban Waste Management (Tirupati) Ltd
6. As per the project specification document issued by M/s. Korus Engineering Solutions Pvt.Ltd, the technical consultants for the project implementation, each of the project sites are to comprise of the following facilities:
  - i. Receiving and storage facility for MSW delivered at doorstep by the urban local bodies (ULB)
  - ii. Processing facility to improve the quality of MSW for use as fuel in boilers;
  - iii. Incinerators with boilers to produce superheated steam along with flue gas treatment;
  - iv. Steam turbine generator for producing electricity;
  - v. Air cooled condensers;
  - vi. Balance of plant and other associated auxiliary facilities.
7. Further, the appellant has stated that the Waste-to-energy project would be an integrated facility for processing Municipal Solid Waste delivered by the Municipal Corporation and other urban local bodies forming a part of the cluster. Fresh mixed MSW would be transferred to the receiving pits from the transport vehicles. After separation of the leachate, further drying would take place in the storage pits. Manual and mechanical

segregation of inert and hazardous material would be carried out before delivery of processed MSW feedstock to buffer storage pits for boiler feeding. The MSW would be used as fuel in the boiler for generating steam. In this process the combustion energy present in the MSW is transformed to steam. The steam is made to expand in the turbine and the heat energy in the steam is converted into work i.e Kinetic energy. The rotating movement of the rotor is transferred to a generator through a coupling and power is produced. The very intention of the waste to energy project is to use MSW as an input and generate electrical energy as the output. The steam turbine used in the MSW based power projects are specifically designed and tailor made for these projects. These turbines once manufactured for Waste-to- energy projects cannot be used for the normal power projects.

8. The appellant filed an application on 06.02.2018 before the Karnataka Authority for Advance Ruling under Section 97 of CGST,KGST Act,2017& IGST Act,2017 read with Rule104 of CGST / KGST Rules,2017 in form GST ARA-01, seeking a ruling on the following question:

*Whether the turbine generator set to be supplied by the applicant to the buyer for use in waste-to-energy project is covered under Sl.No.234 of Schedule I of Notification No.1/2017-IGST(Rate) dated 28.06.2017 as "Renewable energy devices and parts for the manufacture of waste to energy plants/devices" attracting 5% levy?"*

9. The Karnataka Authority for Advance Ruling, vide Advance Ruling No. ADRG 28/2018 dated 17<sup>th</sup> November 2018 (hereinafter referred to as 'Impugned Order) gave the following ruling:

"The Turbine Generator Set to be supplied by the applicant for use in waste to energy project is not covered under Sl.No.234 of the Schedule I of Notification No.01/2017 dated 28.06.2017."

10. Aggrieved by the said ruling of the Authority, the Appellant has filed an appeal under Section 100 of the CGST Act, 2017 / KGST Act, 2017. The appeal has been filed on 09.01.2019 after a delay of 13 days and hence the Appellant has sought for condonation of delay in filing the appeal. They submitted that they had filed a representation before the Central Board of Indirect Taxes and Customs seeking additional clarity on the scope of Sl. No 234 of Schedule I of Notification No 01/2017 CT (R) dated 28.06.2017; that the clarifications were issued only on 31.12.2018 and in the light of the clarifications issued, they filed the appeal. Further, on account of the calendar year closing, the Company personnel could not provide the requisite information for filing the appeal. Therefore, they pleaded that the Authority may condone the delay in filing the appeal in the interest of justice.

11. As regards the issue at hand, the Appellant filed the appeal against the AAR order on the following grounds:

11.1 The appellant submitted that the Notification No.1/2017-Integrated Tax(Rate) dated 28.06.2017(as amended) notified the rate of IGST which shall be levied on the Inter State supply of goods. As per the Notification, the applicable rate of tax that shall be levied on supply of goods, the description of which is specified in the corresponding entry in column (3) of the Schedules under the Notification, falling under the tariff item, sub heading, heading

or chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Notification.

11.2. They submitted that Explanation (iii) to the Notification No.01/2017-IGST provides that 'Tariff item' 'sub-heading' 'heading' and 'chapter' shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act,1975.

11.3. Further, they submitted that Explanation (iv) provides that the rules for the interpretation of the First Schedule to the Customs Tariff Act,1975, including section and chapter note and the general explanatory notes of the First Schedule shall, so far as may be, apply to the interpretation of this Notification.

11.4. They submitted that the product supplied will undisputedly be covered under tariff heading 84 of the Customs Tariff Act,1975, which deals with Nuclear Reactors, boilers, machinery and mechanical appliances; parts thereof.

11.5. They drew the attention to Schedule I of the Notification No.1/2017-Integrated Tax (Rate) which provides the list of goods that attract IGST at the rate of 5%. Extract of the Sl.No.234 of the Notification reads as below:

234	84 or 85 or 94	Following renewable energy devices & parts for their manufacture (a) Bio-gas plant (b) Solar Power based devices (c) Solar Power generating system (d) Wind mills, Wind Operated Electricity Generator (W.O.E.G) (e) Waste to energy plants/devices (f) Solar lantern / solar lamp (g) Ocean waves/tidal waves energy devices/plants
-----	----------------	---

11.6. They submitted that as per the above entry, supplies of the specific renewable energy devices falling under Chapter heading 84, 85 or 94 & parts for their manufacture shall attract IGST at the rate of 5%. The renewable energy devices include "Waste to energy plants/devices".

11.7. Further, they submitted that each of the devices mentioned in entry 234 are for generation of electrical energy using different renewable energy source. The steam turbines supplied to the Waste –to–energy projects of the Government of Andhra Pradesh, being a part used in the manufacture of the waste to energy plant falls within the scope of entry 234 of Schedule I and will therefore attract IGST at the rate of 5%.

11.8. The appellant submitted that a waste to energy (WTE) plant is a waste management facility that combusts wastes to produce electricity. This type of power plant is sometimes called a trash-to-energy, municipal waste incineration, energy recovery or resource recovery plant.

11.9 Waste to Energy is renewable because its fuel source i.e. garbage or municipal solid waste is sustainable and non-depletable.

12. The National Electricity Policy of the Government of India dated 12.02.2005 encourages the setting up of municipal solid waste energy projects in urban areas with a view to reducing environmental pollution apart from generating additional energy. According to the United State Environmental Protection Agency, waste to energy is a 'clean, reliable, renewable source of energy'. And according to the Waste to energy Research and Technology Council founded by the European Economic Community, WTE plants have significant benefits.

12.1. Generally, every Waste to energy plant project contains a series of equipment from the pit where the MSW is dumped to the generator, from where the electricity generated is uploaded to the grid. Each of this equipment forms an indispensable part of waste to energy conversion process.

12.2. The detailed Project Report on Municipal Solid Waste Management for Vishakhapatnam prepared & submitted by Feedback Infra Private Limited in JV with Eco Save System Pvt. Ltd, in September 2015 describes the working of a Waste to energy project. The plant technical features as explained in the project report states that "The power plant is based on Rankine cycle with one regenerative heating in which fuel is fired in a boiler, which generates steam. The steam generated in the boiler is expanded in a steam turbine generator to generate electricity; that steam turbine generator sets that are supplied by them to the waste-to-energy project forms an integral part of the waste-to-energy plant

12.3. In view of the above, they have submitted that the product "Steam turbine generator sets" supplied by them falls under Sl.No 234 of Notification No.01/2017 dated 28.06.2017.

12.4. Further, they have submitted that the decision taken by CESTAT in the case of Triveni Engineering and Industries Ltd vs CCE, Bangalore reported in 2004(172) ELT 353(Tri-Bang) which was affirmed by the Supreme Court in 2015 (321)ELT.A280(SC), cannot be applied while interpreting the present Notification No.01/2017-IT(Rate) dated 28.06.2017, inasmuch as the scope of the present Notification is much wider than the Notification of Central Excise Regime.

12.5. They have submitted that in the IGST Notification, the scope of the entry includes *renewable energy devices & parts for their manufacture*. Further, the specific entry reads as "Waste to energy plants/ devices". The text of the entry itself shows a clear departure from the exemption Notification in the Central Excise Regime inasmuch as the entry is not limited to 'waste conversion device producing energy' only but includes 'waste to energy plants/devices' in its entirety and includes parts used for the manufacture of the waste to energy plants/devices. The entry does not specify that the device or parts are required to either 'Produce' or 'convert' energy. The present IGST Notification not only includes the boilers used in conversion of waste to 'heat energy' but also includes all the equipment falling under Chapter heading 84,85 or 95 of the Customs Tariff Act,1975 used in the entire process of converting waste to energy from the dumping pit to electricity generator. The appellant submits that once it is undisputed that the entire system comprising of the boiler, turbine etc is required for converting waste to energy, each of the constituents will be considered as devices including parts thereof eligible for benefit of 5%.

13. The Appellant further submitted that the meaning of the word 'plant' used in the IGST Notification has not been considered by the AAR in its entirety. The word 'Plant' is defined in Words and Phrases of Excise, Customs and Service Tax, 4<sup>th</sup> Edition, as 'the land, buildings, machinery, apparatus and fixtures employed on a trade or an industrial business/buildings and other physical equipment of an institution.

13.1 In the case of Commissioner of Income Tax, Andhra Pradesh vs Taj Mahal Hotel, Secunderabad reported in (1971) 82ITR 44(SC), the Hon'ble Supreme Court has deliberated on the ambit of the word 'plant' and observed that in popular sense, the ambit of the word 'plant' is very wide.

13.2. In the case of SV Electricals vs CCE, Bhopal reported in 2003(155) ELT 534, the Tribunal has observed that 'plant is an all-embracing term expressive of land, buildings and the equipment of the business conducted on the premises.

13.3. They submitted that entry (e) of Sl.No.234 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017, prescribes a rate of 5% IGST to 'Waste to Energy Plants/devices'. The ambit of word 'plant' used in the entry has not been considered in the impugned advance ruling.

13.4. In view of the above, the word 'plant' used in the entry would subsume all such other devices that are used in Waste to energy conversion plants. The entry cannot be interpreted to say that only waste to energy converting devices are subsumed in the entry, as that would render the specific use of the word 'plant' futile. They submitted that the benefit of this entry is on the entire waste to energy plant and not to specific devices engaged specifically in the conversion of waste to energy; that Para 14.8 of the impugned order holding that 'Turbine' is not a renewable energy device because the turbine at no stage acquires the nature of a device which converts waste to energy, is not in consideration of the wide import of the term 'plant' and hence deserves to be set aside.

14. Further, they have drawn attention to other advance rulings pertaining to 'waste to energy plants/devices which gives the benefit to devices used in Waste to Energy Plants.

- Advance Ruling pronounced for M/s. Boldrocchi India Pvt.Ltd (Advance Ruling No.HAR/HAAR/R/2018-19/12) the question for consideration was whether benefit of Entry 234 extended to 'waste to energy plant boiler's Flue Gas Cleaning System. The Authority held that 'pollution control devices' being supplied by the appellant are covered under Sl.No.234 of Schedule I of Notification NO.01/2017-CT dated 28.06.2017, since even 'pollution control equipment and machinery' are an integral part of Waste to Energy Power Plants.
- Advance Ruling pronounced for M/s. Mukand Ltd reported at 2018-VIL-235-AAR, the question for consideration was 'whether the Electric Overhead Traveling Grab Crane to the supplied by the applicant to the buyer for use in the waste to energy project is covered under Sl.No.234 of Schedule I of Notification 01/2017 dated 28.06.2018-IGST(Rate) as 'Renewable energy devices and parts for the manufacture of waste to energy plants/devices' attracting 5% levy. The Ld. Authority held that EOT Grab Cranes are integral part of the Waste to Energy Plants project for manufacturing and generation of end product of electricity and hence cranes were indeed a 'Part of waste to energy plants.

- Advance Ruling pronounced for M/s. Enexio Power Cooling Solutions India Pvt. Ltd reported in 2018-VIL-251-AAR, the question for consideration before the Authority was 'whether the Air-Cooled condenser (ACC) to be supplied by the applicant to the buyer for use in the waste to energy project is classifiable as 'part for the manufacture of waste to energy plants/devices' attracting 5% IGST or 2.5% CGST and 2.5%APGST. The Ld. Authority has held that ACC being an integral part of waste to energy plants are covered under the entry 234 of Schedule I of Notification 1/2017-CT (Rate) dated 28.06.2017.

15. In view of the above rulings, the appellant submitted that not being granted the benefit of 5% in the instant case would result in discrimination of the appellant against other assesseees who have received the benefit of Entry 234 for parts/devices used in Waste to Energy Manufacturing Plants. Reliance was also placed on the cases of Damodar J Malpani Vs Collector of Central Excise, reported in 2002 (146) ELT 483(SC) and Steel Authority of India vs Collector of Customs, Bombay reported in 2000(115) ELT42(S.C), wherein the Hon'ble SC has held that not granting benefit or exemption to similarly placed assesseees would amount to discrimination.

16. Further, the appellant submitted that the Circular No.80/54/2018-GST dated 31.12.2018 deals specifically with the issue at hand and clearly states that the concession under Entry 234 applies to such equipment under Chapter 84,85 and 94 as are used in initial setting up of the renewable energy plants. In addition, it is also explicitly stated in the Circular that, prior to making the supplies, the supplier must satisfy himself on the requisite documentation from the buyer to ensure that the supplies are used only in Waste to Energy Plants. They reiterated that the Turbine-Generator set are supplies exclusively to the projects of waste-to-energy plants and are not used elsewhere; that a Turbine-Generator set is a *sina qua non* to the establishment of a waste to energy plant and hence is most certainly used in initial setting up of the plant.

#### **PERSONAL HEARING:**

17. The Appellant was called for a personal hearing on 19.02.2019 and were represented by their Advocate Shri. Shivadass. He reiterated the submissions made in the grounds of appeal and also submitted written submissions in support of their plea. The Advocate relied on the Advance rulings given by Authorities in other States and submitted that in the cases of Mukund and Enexio, the project of Jindal Urban Waste Management is the same customer to whom the Appellant in the instant case is supplying the Turbine Generator sets; that it would be unjust to not give the benefit of the Entry 234 to the Appellant when other suppliers supplying to the same project avail the benefit, despite the fact that the goods supplied by the Appellant are a *sina qua non* to the initial setting up of the power plant. He further submitted that, the test is whether such plants and devices are 'integral' to the Waste to Energy Plant and not whether such devices are involved in conversion of the waste to energy. He also relied on the Circular No 80/54/2018-GST which deals with the applicability of GST on waste to energy plants and submitted that the said Circular is binding on all officers employed in the implementation of the Act; that the entry 234 of the impugned notification should be read comprehensively to include "Turbine Generator" sets within the ambit of devices integrally used in "Waste to energy" Plants.

## DISCUSSION & FINDINGS

18. We have gone through the records of the case and taken into consideration the submissions made by the Appellant in the grounds of appeal and at the time of the personal hearing.

19. We find that the Appellant has sought for condonation of delay of 13 days in filing the present appeal. The impugned order of the AAR dated 17.11.2018 was received by the Appellant on 27.11.2018. In terms of Section 100(2) of the CGST Act, every appeal to this Authority should be filed within a period of 30 days from the date on which the Advance Ruling order is communicated to the aggrieved party. The proviso to Section 100(2) empowers this Authority to condone the delay in filing the appeal by another period of 30 days. In this case, the due date for filing the appeal was 27-12-2018 but the Appellant has filed the appeal on the 9<sup>th</sup> January 2019 after a delay of 13 days from the due date for filing appeal. The Appellant has stated that the delay had occurred on account of non-receipt of information required for filing the appeal, from the concerned person in the Company and because they were awaiting the clarification from the CBIC on their representation. Considering the averments made by the Appellant, we are of the view that the delay caused in filing the appeal has been sufficiently explained. The delay in filing the appeal is hereby condoned.

20. Coming to the main issue at hand, the question for determination is whether the Turbine Generator Set to be supplied by the Appellant to the buyer for use in the waste-to-energy project is covered under Sl.No 234 of Schedule I of Notification No 01/2017 dated 28.06.2017, attracting GST levy at 5%.

21. For ease of understanding the relevant entry Sl.No 234 of Schedule I of Notification No 01/2017 dated 28.06.2017 as it stands today, is reproduced below:

Sl.No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
234	84 or 85 or 94	Following renewable energy devices & parts for their manufacture (a) Bio-gas plant (b) Solar Power based devices (c) Solar power generating system (d) Wind mills, Wind Operated Electricity Generator (WOEG) (e) Waste to energy plants/devices (f) Solar lantern / solar lamp (g) Ocean waves/tidal waves energy devices/plants (h) Photovoltaic cells, whether or not assembled in modules or made up into panels.

22. The Schedule I of Notification No 01/2017 dated 28.06.2017 as amended prescribes a rate of 5% on all goods whose description is mentioned in Col 3 of the above table and which are falling under the Chapter heading mentioned in Col 2. Therefore, the goods described under (a) to (h) of Col 3, if falling under Chapter heading 84 or 85 or 94 of the Customs



Tariff Act will be eligible for GST rate of 5%. The parts used to manufacture the goods described at (a) to (h) of the above table are also eligible for the rate of 5% GST, if such parts are classified either under Chapter heading 84 or 85 or 94 of the said Tariff Act. Thus, to be eligible for the rate of 5%, two parameters must be satisfied i.e

- (i) The goods must fall within the description given in Col 3; and
- (ii) The goods must be classified either under Chapter Heading 84 or 85 or 94.

23. In the instant case, the impugned item is a Turbine Generator Set. The Appellant has secured a contract from Jindal Urban Waste Management (Guntur) Ltd (JUWML) for the complete design, engineering, manufacture and supply of Turbine generator Set. JUWML(Guntur) is a Company formed by the promoter M/s JITF Urban Infrastructure Ltd to execute waste to energy project in Guntur. The waste to energy project will be integrated facility for processing Municipal Solid Waste (MSW) delivered by Guntur Municipal Corporation. The waste to energy project comprises of the following facilities:

- a. Receiving and storage facility for MSW delivered at doorstep by ULBs
- b. Processing facility to improve the quality of MSW for use as fuel in boilers.
- c. Incinerators with boilers to produce superheated steam along with Flue Gas Treatment.
- d. Steam Turbine Generator for producing electricity.
- e. Air Cooled Condensers
- f. Balance of plant and other assembled auxillary facilities.

24. A waste to energy plant converts municipal and industrial solid waste by burning waste at very high temperatures and using the heat to generate steam. The steam so generated is used to drive the turbine that creates electricity. The waste to energy plant consists of many equipments/devices starting from the stage where the MSW is dumped in a pit, segregated and incarnated, to the final stage of generation of electricity which is uploaded to the grid. The turbine generator set is one such equipment/device in the entire process chain of a waste to energy plant. As per the project report, one 20MW Turbine Generator Set is required for the JUWML (Guntur) waste to energy plant project. As seen from the technical specifications of the project, the Turbine Generator set comprises of a steam turbine with casing and rotor with blades, nozzles and diaphragms, journal and thrust bearings, gland sealing system, lubricating and control oil system, speed governing and control, turbine drain system, safety trip, monitoring and controls and other instrumentation as required. The Turbine Generator set by itself does not qualify as a waste to energy plant. The turbine generator set together with the boilers, air cooled condensers and a host of other parts, constitute a waste to energy plant.

25. The item described at (e) in Col 3 of entry Sl.No 234 of Notification No 01/2017 is "waste to energy plants/devices". The words "plant" and "device" have not been defined in the GST law. The meaning to be assigned to these terms must, therefore, be gathered having regard to the context in which the term is employed and the object it seeks to achieve. In this case, the use of the terms "plant" and "device" in the item (e) of entry Sl.No 234, is of a wide connotation used to cover the entire process of converting waste to energy. It cannot be interpreted to limit its meaning to only those goods which convert waste into steam and leave outside its scope those goods which convert steam to electricity. The opinion of the AAR that since the turbine does not work on waste but converts steam into energy, and since the Sl.No 234 is applicable only to devices that convert waste to energy and not to devices which convert one form of energy to another, the turbine will not qualify to be covered under Sl.No 234, is not a correct interpretation of the law. The Turbine Generator Set is an integral part in

the process of converting waste to energy and hence the supply of Turbine Generator set for a waste to energy plant project will get covered in the description of item at (e) in Col 3 of Sl. No 234 of Schedule I. It is emphasized that a turbine per se will not be eligible for the concessional rate of 5% GST under Sl.No 234 of Schedule I. It is only when the turbine is supplied for the setting up of the waste to energy plant that the same will be covered under the said Sl.No 234.

26. Another criteria to be satisfied in order to be eligible for the entry Sl.No 234 is that the goods should be falling either under Chapter 84, 85 or 94 of the Tariff. Explanation (iii) to rate Notification No 01/2017 dated 28.06.2017 provides that "Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975. Further, explanation (iv) provides that the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification. As per the Customs Tariff Act, Steam Turbines of an output not exceeding 40MW are classified under Chapter sub heading 8406 82. The relevant extract of the chapter heading 8406 of the Customs Tariff is reproduced below:

Tariff item	Description of goods	Unit	Rate of duty	
			Standard	Preferential areas
1	2	3	4	5
8406	STEAM TURBINES AND OTHER VAPOUR TURBINES			
840600	- Turbines for marine propulsion	U	7.5%	-
	- Other turbines			
8406 81 00	-- of an output exceeding 40MW	U	10%	-
8406 82 00	-- of an output not exceeding 40MW	U	10%	-
8406 90 00	- Parts	Kg	10%	-

As already mentioned above, the turbine generator set supplied by the Appellant to JUWML is of 20MW capacity and comprises of a steam turbine with casing and rotor with blades, nozzles and diaphragms, journal and thrust bearings, gland sealing system, lubricating and control oil system, speed governing and control, turbine drain system, safety trip, monitoring and controls and other instrumentation as required. In terms of Note 4 of Section XVI of the Customs Tariff, *"where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function."* In this case, the Turbine generator set which consists of many individual components all work together to perform the defined function of converting steam to electricity. Therefore, the same is classifiable under Chapter Sub-heading 8406 82 of the Customs Tariff Act, 1975.

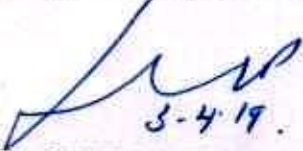
27. The CBIC in its Circular No 80/54/2018-GST dated 31.12.2018, at Para 11, has clarified that the concession of 5% rate as per entry Sl.No 234 of Notification No 01/2017 would be available only to such machinery, equipment, etc which fall under Chapter 84, 85 and 94 and used in the initial setting up of renewable energy plants and devices including Waste to Energy Plants. The supplier must satisfy himself that the goods falling under

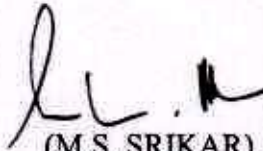
Chapter 84, 85 and 94, say a turbine or a boiler, are required in a waste to energy plant and would be used in a waste to energy plant. In the Appellant's case, as can be seen from the terms of the contract and the project report, the Turbine Generator set is to be supplied to Jindal Urban Waste Management (Guntur) Ltd, a company formed to execute the waste to energy project awarded by the Government of Andhra Pradesh. Therefore, we hold that the said turbine generator set is eligible for the levy of 5% GST in terms of Sl.No 234 of Schedule I of Notification No 01/2017 IT (R) dated 28.06.2017.

28. In view of the aforesaid discussions, we set aside the ruling dated 17.11.2018 of the Karnataka Authority for Advance Ruling and answer the question in the following manner:

*The turbine generator set to be supplied by the Appellant to the buyer for use in waste-to-energy project is covered under Sl.No.234 of Schedule I of Notification No.1/2017-IT(Rate) dated 28.06.2017 attracting 5% levy.*

29. The Appeal is disposed off in the above manner.

  
3-4-19.  
(D.P. NAGENDRA KUMAR)  
Member  
Karnataka Appellate Authority  
for Advance Ruling

  
3-4-19  
(M.S. SRIKAR)  
Member  
Karnataka Appellate Authority  
for Advance Ruling