

MAHARASHTRA AUTHORITY FOR ADVANCE RULING.

GST Bhavan, 8th floor, New Building ,Mazgaon , Mumbai 400010.

**(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)
BEFORE THE BENCH OF**

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

(2) Shri B. V. Borhade, Joint Commissioner of State Tax,(Member)

GSTIN Number, if any/ User-id	27AADCP2916N124
Legal Name of Applicant	Premium Transmission Private Limited
Registered Address/Address provided while obtaining user id	Unit 1 Premium Transmission Private Limited Mumbai Pune Road Chinchwad, Pune - 411019
Details of application	GST-ARA, Application No. 78 Dated 21.09.2018
Concerned officer	Division -I (Talegaon), Pune I Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory / Manufacturing
B Description (in brief)	We are suppliers of industrial products mainly specialized in manufacturing geared boxes, geared motors, fluid couplings, etc
Issue/s on which advance ruling required	(i) classification of goods and/or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act”] by M/s **Premium Transmission Private Limited**, seeking an advance ruling in respect of the following question.

a) What is the correct classification of 'Geared Motor' supplied by the applicant?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the “GST Act”.

02. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

I. BRIEF BACKGROUND OF THE TRANSACTION:

- The Applicant, M/s Premium Transmission Private Limited is a supplier, exporter and manufacturer of various industrial products mainly specialized in manufacturing geared boxes, geared motors, fluid couplings, etc.
- One of the product 'Geared Motor', manufactured by applicant is a combination of gear box' and electric motors'. Both the products have specifically been classified under the Harmonized System

of nomenclature (HSN). While the product 'Gear Box' is classified under the HSN Code '8483', 'Electric Motors' are classified under the HSN Code '8501'. However, the product 'Geared Motor' is not specifically classified under any of the HSN Codes.

- In the erstwhile Indirect Tax regime, Applicant has been discharging Central Excise duty on removal of such product. The applicant was classifying the product under the HSN Code 8483 of the Central Excise Tariff Act, 1985 and both the products (Gear Box and Electric motor) combined to form 'Geared motor' were dutiable at the rate 12.5%. Hence, the classification had never been a subject matter of dispute between the applicant and authorities and the same was never revisited.
- Since July 2017, new Indirect Tax regime - Goods and Service Tax (GST) has been introduced in India by way of introduction of following legislation:

I. Central Goods and Service Tax Act, 2017 (CGST)

II. State wise Goods and Service Tax Legislation (SGST)

III. Integrated Goods and Service Tax Act, 2017 (GST)

- In recent decision of Gujarat Authority of Advance Ruling, in respect of a similar matter, it had been held that the product 'Geared Motor' would be classified under the HSN Code '8501'.
- In light of the same, Applicant has analysed classification and applicability of CGST, SGST and IGST under the new legislation. For classification, it has been clarified in the rate notification of respective legislation that rule for interpretation of the First Schedule to the Customs Tariff Act, 1975 including Section notes and Chapter notes and general explanatory notes of the said First Schedule would be applicable for the purpose of classification under GST. The classification under the Customs Tariff Act, 1975 is based on the harmonized system of nomenclature adopted worldwide.

The HSN Codes 8483 and 8501 are taxable at the rate 28% and 18% respectively under the GST legislation.

The Applicant has sought to classify 'Geared Motor' being supplied under HSN 8501 basis the nature of the product, after considering relevant chapter notes, section notes of the Customs Tariff Act, 1975, explanatory notes to Harmonized System of Nomenclature issued by World Trade Organization and recent decision of Gujarat Authority of Advance Ruling on impugned product

- Accordingly. Applicant is making detailed submission herein below to demonstrate eligibility of 'Geared Motor' to be classified under the HSN Code 8501 and requests a ruling be pronounced in this regard
- Applicant would like to submit detailed manufacturing of the product (as Annexure 4). In addition, description of the product can also be visited at company's official website <http://www.premium-transmission.com/products/geared/>.

II. DETAILS OF PRODUCT MANUFACTURED BY THE APPLICANT

Geared Motor

- (i) Geared Motor refers to a combination of an electric motor and a gearbox.

(ii) Typically gear boxes are used to increase torque while reducing the speed of a prime mover output shaft. This means that the output shaft of a Gear Box rotates at a slower rate than the input shaft, and this reduction in speed produces a mechanical advantage, increasing torque. In short, the gearbox monitors the speed of the electric motor to which it is attached thereby converting the speed into torque.

(iii). Hence, primarily the function of a gear box is to control the speed of electric motors and hence, in order for a gearbox to function, it has to be attached to an electric motor. In short, Gearbox cannot have any use without being rotated and coupled with motor affixed to it.

(iv) Following raw components/ inputs materials are primarily used in the manufacture of Geared Motor

Major Raw Materials	HSN Code	Rate of GST
Bearing	8482	18%
Casting - raw or finished	7325	18%
Fasteners	7318	18%
Pinion & wheel	8483	18%
Motor	8501	18%
Oil seal	4016	18%

(v) Geared box is a separate marketable commodity and hence can be sold separately as well.

(vi). The geared motors manufactured by the applicant are used in many industrial machineries/conveyers that require speed controlled motors. Hence, when a customer intends to buy a geared motor, the clearly defined function of such product is to have a motor with a controlled speed in order for the machine to operate properly.

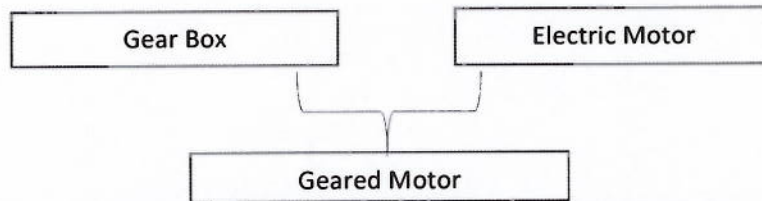
(vii) The manufacturing process of Geared Motor includes below

Activity	Description of the Process
Material issue from store	In this process CNC (Computerised Numerical Control) blank and casting will be issue to machine shop as per PPC (Production Planning and Control) plan.
Hobbing	It is a gear cutting process on outer diameter of CNC gear blank by using tool called as hob For this operation the applicant is using hobbing machine.
Heat Treatment	It is process where material will be heated up to 900 degree and hardness will be created also including pre-heating and tempring. For this process the applicant is using seal quenched furnace.
Chamfering	It is process where after hobbing and heat treatment hard burr will be removed from teeth of the gear. For this the applicant is using tooth chamfering machine.
ID/OD Grinding	1. It is process where internal diameter of gear will be doing machining with the help of grinding wheel. 2. It is process where outer diameter of shaft will be doing machining with the help of Grinding wheel. In this process the applicant is using LMW& Parishudh machine.
Profile Grinding	It is process where finishing of the teeth of gear will be done with the help of Grinding wheel. For this the applicant is using Samputensili / hofler / Reishauer / Csepel Machine.
Foot Milling	It is process where casting foot surface is machined with help milling cutter. For this the applicant is using HMC (Horizontal Machining Centre) machine.
Case Machining	It is process where casting internal faces is machined with the help of milling cutter and boring bar. For this the applicant is using HMC machine.
Side Drilling	It is process where small holes are generated with the help of drill.
Casting Washing	It is process where after machining casting is cleaned with hot solvent to remove burrs and dirt.
Inspection	It is process of confirming the machining parameters as per drawing requirement.
Material Handover to Store	It is process where Finished material will be handover to store in wrapped condition.
Receipt of Material and work order from store	It is process where material is issuing as per BOM to Assembly section.



Housing Assembly	It is process where internal gear will be assembled in main housing with the use of bearing and circlip.
Adaptor Assembly	It is process where Input pinion body will be assembled in adaptor with the use of bearing and circlip.
End Cover Assembly	It is process where out wheel with shaft will be assembled in end cover with the use of bearing and circlip.
Final Assembly	It is process where the main housing assembly is assembled with adaptor assembly and end cover assembly
Testing	It is process of confirming noise level & gear head ratio as per requirement.
Electric Motor Assembly	It is process where Gear head will be assembled with electrical motor which is bought out item and new product will be gear motor which is sold in market as a final product.
Painting	It is process where the geared motor will be cleaned by hand with the help of cleaning agent and washed. Then it is painted using a gun and dried with the help of a dryer.
Final Pre-delivery Inspection	It is process of confirming the product as per GA (General Arrangement) drawing /Outbound.
Packing	It is process where geared motor will be packed as per outbound.
Invoicing	It is process where tax invoice will be created as per customer requirement.
Dispatch	In this process material hand over to transport under supervision of security guard as per invoice,

(viii). Below is a pictorial presentation of a 'Geared Motor



III. STATEMENT CONTAINING APPLICANTS INTERPRETATION OF LAW IN RESPECT OF THE QUESTIONS RAISED IN ANNEXURE -1:-

- (i) **'Geared Motor' to get covered under Schedule III of IGST Rate Notification No. 1/2017 Integrated Tax (Rate) dated 28 June 2017 (as amended) and liable to 18%**
- (a) In order to deliberate on the question being sought, it is pertinent to analyse the classification of 'Geared Motor' supplied by Applicant in detail. Technical features of the product are relevant for such analysis.
- (b) Accordingly, applicant submits that 'Geared Motor' is combination of Gearbox and Electric Motor. Many industrial machineries require electric motors to run at a specific speed which is lesser than the speed at which the motor normally runs. The gearbox reduces the speed of the motor and convert the same into torque. 'Torque' is a force that causes rotation. The 'Gearboxes' are thereby fitted to electric motor for its effective functioning. Gear Box is a device which is used to transmit mechanical power and speed from one shaft to other shaft. Gear Box helps in changing the direction as well as output RPM with the help of various combination of gearing.
- (c) It can be deliberated that the clearly defined function of a gearbox is to reduce the speed of the motor to which it is attached and for providing a desired output. Hence, the primary function of the product 'Geared Motor' is that of an electric motor with a speed controlling mechanism by way of attaching the gearbox.

- (d) Vide notification no 1/2017 of Integrated Tax (Rate) dated June 28, 2017, the Government of India has notified IGST rates for goods. The said notification has classified goods into 4 digit HSN Codes. Further under the said notification, it has been specified that section notes, chapter notes and General explanatory notes mentioned under Customs Tariff Act, 1975 shall apply to the goods classified therein under GST.
- (e) Since the notification refers to the classification of goods under the Customs Tariff Act, 1975, we have to refer to classification adopted therein.

(ii). CLASSIFICATION UNDER CUSTOMS TARIFF ACT

- (a) As regards classification of 'Geared Motor', it would be pertinent to note that there is no separate tariff entry for this combined product. Hence, it would be important to refer to tariff entries in which 'Gear Boxes' and 'Electric Motor' fall. We would like to draw your attention to the extract of description of goods falling under Customs Heading 8483 and 8501:

8483-

Transmission shafts (including cam shafts and Crank shafts) and cranks; bearing housings and plain shaft bearings, gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; Flywheels and pulleys, including pulley Blocks; clutches and shaft couplings (including universal joints)

8501 -

Electric motors and generators (Excluding generating sets)

- (b) Further, it is also imperative to look at the relevant section and chapter notes to the Customs Tariff Act, 1975 for classification of products. For the tariff entries under discussion there are no relevant chapter notes to the chapter 84 and 85. However, below section note to Section XVI of which the chapters 84 and 85 are a part of is relevant in such classification

Note no. 4

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.

- (c) Thus based on the technical specification of the product, 'Geared Motors' appear to be classifiable under heading 8501, since, the products gearboxes and electric motors are fitted together for clearly defined function of providing intended output from the electric motors as is suitable to the machines it is attached to. Hence, as per section note 4 of the section XVI of Customs Tariff Act, 1975 this combined product is classifiable under the heading appropriate to that function. Hence, the applicant submits that the product be classifiable under Sr. No. 372 of Schedule III of Notification No. 1/2017 Integrated Tax (Rate) dated 28 June 2017
- (d) The applicant, mainly being the business of manufacture of Gearboxes, had adopted the HSN classification of that of the Gearboxes i.e. 8483 for 'Geared Motors' as well in the Central Excise Regime. Under the Central Excise Regime, since both the tariff headings 8483 and 8501 were

dutiable at the rate 12.5%, the classification was neither revisited by the Applicant nor was it questioned by the authorities. The applicant has adopted the same HSN classification of 'Geared Motor' under GST regime as well until now.

(iii) CLASSIFICATION AS PER HARMONIZED SYSTEM OF NOMENCLATURE

- (a) The classification under Customs Tariff Act is based on the Harmonized System of Nomenclature published by the World Trade Organisation adopted worldwide.
- (b) There is ample jurisprudence available wherein it was held that for classification of goods, harmonized system of nomenclature is a safe and internationally accepted base.
- (c) In Collector of Central Excise Shillong V. **Wood Crafts Pvt. Ltd.** (1995) 3 SCC 454, it was held by the Apex Court that

"12. It is significant, as expressly stated, in the Statement of Objects and Reasons, that the Central Excise Tariffs are based on the HSN and the internationally accepted nomenclature was taken into account to "reduce disputes on account of tariff classification". Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN."

- (d) This case has further been referred in various other cases wherein the harmonized system of nomenclature along with its explanatory notes has been relied on as a safe guide for matters of classification.

(e) Hence, it would be imperative to refer to the descriptions provided in the **Explanatory Notes to the Harmonized System of Nomenclature.**

- (f) We request your kind attention to the relevant extract of explanatory notes for chapter headings 8483 and 8501 reproduced below

8483- *"(E) Gear Boxes and other speed changers, including torque converters'.*

'The heading does not cover gear boxes or other variable speed changers combined with a motor; these are classified in the same heading as the motor.'

8501- *(0) Electric Motors'*

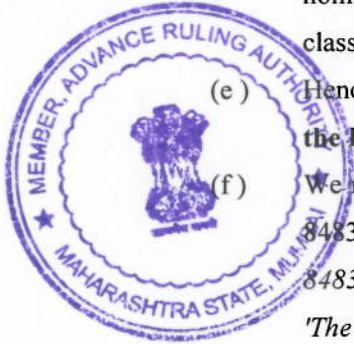
'Motors remain classified here even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools.'

- (g) The explanatory notes to the Harmonized System of Nomenclature has clearly specified that such combined product as manufactured by the applicant would not fit into the HSN 8483 and the same has also been specifically included in the HSN 8501.

(iv) CLASSIFICATION UNDER GST

- (a) Basis the IGST Rate notification, goods are divided into different schedules of tax rates and the same is summarized as follows:

Sr No	Goods falling under Schedule	Rate of tax
1	Schedule 1	5%
2	Schedule II	12%
3	Schedule III	18%
4	Schedule IV	28%
5	Schedule V	3%
6	Schedule VI	0.25%



- (b) As IGST Rate Notification directs to adopt classification in terms of Customs Tariff Act, 1975, Applicant has adopted classification of 'Geared Motor' under heading 8483. The same is included in Entry number 135 of Schedule IV of IGST Rate Notification No. 1/2017-Integrated Tax (Rate).
- (c) However, the applicant intends to adopt classification of 'Geared Motor under heading 8501. Entry number 372 of Schedule III of IGST Rate Notification No. 1/2017-Integrated Tax (Rate) which reads as under:

SINO	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
372	8501	Electric motors and generators (excluding generating sets)

Applicant wishes to draw your kind attention to the fact that Entry 372 reproduced above is applicable to 'Electric motors and generators' falling under heading 8501. The same is chargeable to tax at the rate 18%. Accordingly, a product which is classifiable under this heading would fall under entry 372 and hence would be liable to 18% IGST.

- (d) Sample copy of invoice and Lorry Receipt which was issued, have been enclosed as **Annexure 6** for your ready reference.

(v) OTHER RULING

(a) Similar view was adopted by the Gujarat Authority of Advance Ruling in the case of M/s. Power Build Private Limited (attached as Annexure 7), wherein it was held that the product 'Geared Motor' shall be classified under the same heading as that of 'Electric Motor'. Hence, the same be classified under the heading 8501.

(b) Thus bearing in mind, entry 372 of Schedule III of GST classification notification (1/2017 - Integrated Tax dated June 28, 2017) and aforesaid case law, it can be concluded that 'Geared Motor' shall fall under the HSN classification '8501' shall be chargeable to tax at the rate 18% under the above mentioned schedule entry.

(vi) CONCLUSIONS:

- (a) In our view, 'Geared Motors' so supplied by applicant, would be classified under Sr. No 372 of Schedule III of IGST Act, 2017 - *Electric motors and generators (excluding generating sets)* as the product 'Geared Motors' manufactured by the applicant is a combination of two products and that schedule entry specific to this product is not present in the Harmonized System of Nomenclature, the classification has to be done on the basis of chapter and section notes to the Customs Tariff Act, 1975 and explanatory notes to the Harmonized System of Nomenclature.
- (b) Under the chapter and section notes to the Customs Tariff Act, 1975 and explanatory notes to the Harmonized System of Nomenclature, it has to be classified under the same heading as that of the Electric Motors at Sr. No. 372 of the schedule III of the GST Tax Schedules and shall be taxed at the rate 18%.

3. SUBMISSIONS OF THE CONCERNED OFFICER:

The submission, as reproduced verbatim, could be seen thus-

“ The applicant asked for the correct classification of 'Geared Motor' supplied by the applicant.

The applicant is manufacturing 'Geared Motor' which is said to be a combination of 'gear box' (Classified under HSN Code 8483) & electric motors (Classified under HSN Code 8501). But the product Geared Motor is not found specifically classified under any HSN Code.

In the earlier Tax regime, Applicant was classifying this product under the HSN Code 8483 of the Central Excise Tariff Act, 1985 and paying duty at the rate 12.5%.

After introduction of GST for classification, it has been clarified in the rate notification of respective legislation that rule for interpretation of the First Schedule to the Customs Tariff Act, 1975 including Section notes and Chapter notes and general explanatory notes of the said First Schedule would be applicable for the purpose of classification under GST. The classification under the Customs Tariff Act, 1975 is based on the harmonized system of nomenclature adopted worldwide and the HSN Codes 8483 and 8501 are found taxable at the rate 28% and 18% respectively under the GST legislation vide IGST Rate Notification No.1/2017-Integrated Tax (Rate)dated 28 June 2017 (as amended) as under,

S.No. (1)	Chapter /Heading / Subheading / Tariff item (2)	Description of Goods (3)
Schedule 3-18%		
372.	8501	Electric motors and generators (excluding generating sets)
Schedule 4- 28%		
135.	8483	Transmission shafts (including cam shafts and crank shafts)and cranks; bearing housings and plain shaft bearings, gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)



On going through the following relevant chapter notes, section notes of the Customs Tariff Act, 1975 for chapter 84,

2. Subject to Note 1 to this section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules :

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

(c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.

3. Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

4. 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.

5. For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85."

On going through the Sr. No. 4 above (which is also quoted by the applicant), it appears that Geared Motor is a machine consisting of individual components interconnected by transmission devices intended to contribute together. As described by the applicant the Gear box is fitted to reduce the speed of the motor and convert the same into torque. 'Torque' is a force that causes rotation. The 'Gearboxes' are thereby fitted to electric motor for its effective functioning. Gear Box is a device which is used to transmit mechanical power and speed from one shaft to other shaft. Gear Box helps in changing the direction as well as output RPM with the help of various combination of gearing which is a main function. Thus from the above, it appears that after attaching the Gear Box to Electric Motor, it will correctly fall under the heading of Chapter 8483 - "TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS; BEARING HOUSINGS AND PLAIN SHAFT BEARINGS; GEARS AND GEARING; BALL OR ROLLER SCREWS; GEAR BOXES AND OTHER SPEED CHANGERS, INCLUDING TORQUE CONVERTERS; FLYWHEELS AND PULLEYS, INCLUDING PULLEY BLOCKS; CLUTCHES AND SHAFT COUPLINGS" and it will no longer fall under the heading 8501 which is "ELECTRIC MOTORS AND GENERATORS (EXCLUDING GENERATING SETS)" since it will no longer remain an Electric Motor but a Geared Motor which can be called a mechanical device & all the mechanical transmission devices are to be classified under Chapter 84 -" MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES"

Also nowhere it has been mentioned in Chapter 8501 about Electric Motors equipped with gears or gear box.

As claimed by the applicant, although earlier the duty rate was same for 8483 & 8501, the department never questioned the classification as it was correct.

The applicant has mentioned that in **Collector of Central Excise Shillong V. Wood Crafts Pvt. Ltd. (1995) 3 SCC 454**(Attached as Annexure 5), it was held by the Apex Court that

"12. It is significant, as expressly stated, in the Statement of Objects and Reasons, that the Central Excise Tariffs are based on the HSN and the internationally accepted nomenclature was taken into



account to "reduce disputes on account of tariff classification". Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN."

However, the existing classification (i.e.8483) is already based on the harmonized system of nomenclature & therefore an already adopted classification of 'Geared Motor' under heading 8483, included in Entry number 135 of Schedule IV of IGST Rate Notification No. 1/2017-Integrated Tax (Rate) by the applicant is correct & the intended classification of 'Geared Motor' under heading 8501. Entry number 372 of Schedule III of IGST Rate Notification No. 1/2017-Integrated Tax (Rate) is not correct.

The applicant has quoted the view adopted by the Gujarat Authority of Advance Ruling in the case of *M/s. Power Build Private Limited* wherein it was held that the product 'Geared Motor' shall be classified under the same heading as that of 'Electric Motor'. Hence, the same be classified under the heading 8501. However, the issue cannot be said to be reached to finality.

In view of the above, it is to submit that the product is correctly classifiable under chapter heading 8483."

04. HEARING

The Preliminary Hearing in the matter was held on 27.11.2018, Sh. Nitin S Shah, Advocate appeared and requested for admission of application as per contentions made in their application. Jurisdictional Officer was not present.

The application was admitted and called for final hearing on 12.12.2018. Sh. Nitin S Shah, Advocate appeared, made oral and written submissions. Jurisdictional Officer Sh. Abhinav Chaubey, Inspector Division- I,(Malegaon), Pune - I Commissionerate appeared and made written submissions. The contention of both the parties were heard on this issue.

05. OBSERVATIONS

We have gone through the facts of the case and written submissions made by both the applicant and the concerned officer. The issue put before us is determination of classification of "Geared Motor" which would be on the lines thus –

Applicant is engaged in manufacture, supply and export of various industrial products such as geared boxes, geared motors, fluid couplings etc. With respect to the classification of products such as 'Electric Motor' or 'Gear box' under the HSN, the applicant does not find any difficulty since there is specific mention of the products under the said system. However, with respect to 'Geared Motor', a combination product manufactured, the applicant has requested that a ruling be pronounced on the correct classification as there is no specific heading under the HSN.

The product 'Geared Motors' is a combination of gear box and electric motors. Vide Notification No. 1/2017 C.T. (Rate) dated June, 28, 2017, tariff rates have been notified for the purpose of levy and collection of GST which has classified goods into 4 digit codes as per HSN. In the said Notification it has been specified that for the purpose of classification of goods, the section notes, chapter notes and the General Explanatory notes mentioned under Customs Tariff Act, 1975 would apply to classification of

goods under the GST Act. Therefore the classification of the product is to be decided in terms of HSN. On perusal of the same, we find that the following two headings compete for the classification of Geared Motor:-

- (i) **8483: Gear Boxes and other speed changers, including torque converters'**
and
- (ii) **8501 - Electric motors and generators (excluding generating sets).**

In view of this, we now refer to relevant Explanatory Notes etc. to section XVI, Explanatory notes to headings 8483 and 8501 to find the appropriate classification for 'geared motors',.

(i) Section Notes 4 and 5 of HSN are relevant to this case which are reproduced below:

Note : 4

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.

Note : 5

For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85."

(ii) Explanatory Note relevant for Motors at Note (I) (A) to heading 8501:

“(I) ELECTRIC MOTORS

Electric motors are machines for transforming electrical energy into mechanical power. This group includes rotary motors and linear motors.

(A) Rotary motors produce mechanical power in the form of a rotary motion. They are of many types and sizes according to whether they operate on DC or AC, and according to the use or purpose for which they are designed. The motor housing may be adapted to the circumstances in which the motor will operate (e.g., dust proof, drip proof or flame proof motors; non-rigid mountings for belt driven motors, or for motors which will be subject to much vibration).

Many motors may incorporate a fan or other device for keeping the motor cool during running.

With the **exception** of starter motors for internal combustion engines (**heading 85.11**), the heading covers electric motors of all types from low power motors for use in instruments, clocks, time switches, sewing machines, toys, etc., up to large powerful motors for rolling mills, etc.

Motors remain classified here even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools.”

(Page XVI- 8501-2)

(iii) Further to the above, it is relevant to refer to the exclusion clause at the end of the Explanatory Note (E) to headings 8483 which is reproduced as below (Page No.XVI-8483-(3) stated below:

“(E) GEAR BOXES AND OTHER SPEED CHANGERS, INCLUDING TORQUE CONVERTERS

'The heading does not cover gear boxes or other variable speed changers combined with a motor; these are classified in the same heading as the motor.'

From the harmonious reading of Section notes 4 and 5 to Section XVI and the inclusion Note in 8501 and the exclusion Note in heading 8483 referred to above, the 'geared motors' being a combination of machines that is Electric Motors and Gear Box intended to contribute together a cleared defined function to run industrial machineries with speed controlling mechanism, the Geared Motor is appropriately classifiable in the heading 8501.

However, the jurisdictional officer has different view. He submits that Geared Motor is a machine consisting of two individual components interconnected. His view is that electrical motors when attached to Gear Box will no longer remain an electrical motor but a geared motor with altogether a different function that is transmission of mechanical power and speed from one shaft to another. Though the contention of the jurisdictional officer appears convincing, in view of the exclusion note under chapter heading 8483 and inclusive note to 8501, it would be against the scheme of HSN to agree with the jurisdictional officer's view.

05. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 78/2018-19/B- 167 Mumbai, dt. 24/12/2018

For reasons as discussed in the body of the order, the question is answered thus –

Question: - What is the correct classification of 'Geared Motor' supplied by the applicant?

Answer: - "Geared Motors" supplied by the applicants fall under Tariff Heading 8501.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Commissioner of Central Tax, Churchgate Mumbai.
5. Joint commissioner of State tax, Mahavikas for Website.

CERTIFIED TRUE COPY

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MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.