

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AAACM5008R1Z5
Legal Name of Applicant	M/s Mukand Limited
Registered Address/Address provided while obtaining user id	Thane- Belapur Road, Dighe, Kalwe, Thane - 400 605, Maharashtra, India.
Details of application	GST-ARA, Application No. 18 Dated 02.05.2018
Concerned officer	ASSISTANT COMMISSIONER DIVISION -VI, CGST THANE COMMISSIONERATE
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory/Manufacturing
B Description (in brief)	Classification and rate of tax applicable to the supplies made to 'waste-to-energy projects
Issue/s on which advance ruling required	(ii) Applicability of a notification issued under the provisions of the Act
Question(s) on which advance ruling is required	As reproduced in para 02 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 Mukand Limited**, the applicant, seeking an advance ruling in respect of the following questions:

Whether the "Electric Overhead Traveling Grab Crane (EOT Grab Crane)" to be 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 1/2017 dated 28.06.2018- IGST (Rate) as 'Renewable energy devices and parts for the manufacture of waste to energy plants/devices', attracting 5% levy.

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-

Brief Description of Activity carried out by Applicant:

B.1 M/s Mukand Limited, the Applicant herein, is a Public Limited Company incorporated in India and engaged in the manufacture and supply of special and alloy steels and Overhead Traveling Crane (and parts thereof) solution for handling waste for Industrial Captive. The Applicant manufactures crane lifting capacity up to 500 tons.

B.2 The Applicant is a manufacturer of various type of crane for heavy materials handling solutions, providing solutions specifically for Biomass, steel industries, heavy equipment handling, handling cargo at ports, Co-generation, Waste-to-energy etc. Apart from manufacturing, the Applicant also provides aftermarket services to its customers.

B.3 The Applicant enters into agreements with their customers for design, manufacture, and supply of crane and also for commissioning and installation of cranes at the site of the Customers.

B.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 (municipal solid waste) Waste-to-energy plants in three clusters in Guntur, Vishakhapatnam and Tirupati districts of Andhra Pradesh to JITF Urban Infrastructure Ltd.

B.5 For the execution of the projects, the following two companies were incorporated with JITF Urban Infrastructure Ltd, as the promoter:

- Jindal Urban Waste Management (Guntur) Ltd.
- Jindal Urban Waste Management (Vishakhapatnam) Ltd.

B.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:

- Receiving and storage facility for MSW delivered at doorstep by the urban local bodies (ULBs).
- Handling the waste for storage and movements into processing facility.
- Processing facility to improve the quality of MSW for use as fuel in boilers.
- Incinerators with boilers to produce superheated steam along with flue gas treatment.
- Steam turbine generator for producing electricity.
- Air cooled condensers.
- **Balance of plant and other associated auxiliary facilities.**



Hereto Annexed & Marked as EXHIBIT - "B" is the copy of Project specification
documents issued by M/s. Korus Engineering Solutions Pvt. Ltd.

Process Description

- B.7 The Waste to Energy project will 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.
- B.8 Mixed MSW will be transferred to the receiving pits from the transport vehicles. After separation of the leachate, further drying will take place in the storage pits. Manual and **mechanical segregation of inert and hazardous material will be carried out before delivery of processed MSW feedstock to buffer storage pits for boiler feeding.**
- B.9 The MSW is used as a 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 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.
- B.10 Indicative process flow of diagram for Power Generation is shown in the Drawing, is shown below:

The figure given below shows schematic diagram of waste to energy power plant:

Hereto Annexed & Marked as EXHIBIT - "C" is the copy of indicative process flow of diagram for Power Generation

The Overhead Traveling Grab Cranes used in the MSW based power projects are specially designed and tailor made for these projects.

C. THE PRESENT APPLICATION IS MAINTAINABLE UNDER SECTION 97 OF THE MGST ACT, 2017.

- C.1 The Applicant has filed the present application under Section 97(1) of the Maharashtra Goods and Services Act, 2017 ("MGST Act") read with Rule 104(1) of the Maharashtra Goods and Services Rules, 2017 ("MGST Rules").
- C.2 Sections 97(2)(b) of the MGST Act provides that the question in respect of which Advance Ruling is sought shall be inter-alia in respect of the applicability of a notification issued under the provisions of the GST Act.
- C.3 In the instant application for advance ruling, the Applicant seeks to determine the applicability of Schedule I of the Notification No. 01/2017-1. Tax (Rate) dated 28.06.2017 to the supplies of Overhead Travelling Cranes to be made by the Applicant to waste-to-energy projects and the rate of tax applicable on such supplies. The Applicant therefore submits that question on which the present advance ruling is sought fulfils the requirement under Section 97(2) (b) of the MGST Act.

D. APPLICANT'S UNDERSTANDING:

- D.1 The Applicant submits that the Electric Overhead Travelling Grab Cranes that are to be supplied to the waste to energy projects fall under Sl. No 234 of Schedule I of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, as 'Renewable energy devices and parts for the manufacture of waste to energy plants/devices', attracting 5% levy, for the reasons furnished herein below.

Hereto Annexed & Marked as EXHIBIT - "D" is the copy of Notification No.1/2017- Integrated Tax (Rate) dated. 28.06.2017.

SUBMISSIONS

E. ELECTRIC OVERHEAD TRAVLING GRAB CRANE (EOT GRAB CRANE) TO BE SUPPLIED TO WASTE TO ENERGY PROJECTS FALLS UNDER SL. 234 OF SCHEDULE I OF NOTIFICATION NO. 1/2017-INTEGRATED TAX (RATE) DATED 28.06.2017 ATTRACTING GST AT THE RATE OF 5%

- E.1 The Government of India on the recommendations of the Council has vide Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017', (as amended) notified the rate of the IGST that 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, subheading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules.
- E.2 Explanation (iii) to Notification No. 1/2017-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.
- E.3 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.
- E.4 It is submitted that the product proposed to be 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.
- E.5 Schedule I of the Notification No. 1/2017- Integrated Tax (Rate) provides the list of goods that attract IGST at the rate of 5%. 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 (WOEG) (e) Waste to energy plants / devices (f) Solar lantern/solar lamp (g) Ocean waves/tidal waves energy devices/plants
------	----------------	--

[Emphasis supplied]

E.6 As per the 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".

E.7 The Applicant submits that the steam turbines supplied to the Waste-to-energy projects of the Government of Andhra Pradesh falls being a part used in the manufacture of the waste to energy plant falls within the scope of entry 234 of Schedule I and therefore attracts IGST at the rate of 5%.

WASTE TO ENERGY PLANTS

E.8 A waste-to-energy ("WTE") plants 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.

E.9 Waste-to-energy is renewable because its fuel source--garbage or Municipal solid waste -- is sustainable and non-depletable.

E.10 The National Electricity Policy of the Government of India dated 12.02.2005 encourages for 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 States Environmental Protection Agency, waste-to-energy is a "clean, reliable, renewable source of energy."

E.11 According to the Waste-to-energy Research and Technology Council, founded by the European Economic Community, the WTE plants have significant environment benefits

E.12 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 form an indispensable part of waste-to-energy conversion process.

E.13 The Detailed Project Report on Municipal Solid Waste Management for Visakhapatnam prepared & submitted by Feedback Infra Private Limited in JV with Eco Save Systems Pvt. Ltd. in September 2015 describes the Waste to energy project and the Refuse to fuel based power plant.



E.14 The plant technical features as explained in the report is extracted below for ready reference: **Instrumentation Special Requirements**

RDF Storage:- The RDF storage will be RCC construction and storages capacity shall be as per system requirement. Suitable capacity of Grab crane will be considered. The storages will be covered with tubular truss with suitable ventilation sheets.....

Control and Instrumentation For ease of operation the entire plant has been divided in the following sub plants like:

- **Steam Turbine Generator STG along with its auxiliaries, vacuum and condensate system etc. (Operation, Control and Monitoring from DCS at CCR).**
- **Steam Generator (SG) along with feeding system etc. (Operation, Control and Monitoring from DCS at CCR).**
- **Auxiliary Electrical System (Operation, Control and Monitoring from DCS at CCR).**
- **Compressed Air system (Control from Local with status monitoring at DCS)**
- **Fire Alarm and detection system (AI Fire House and Repeat Alarm at CCR).**
- **Cooling Water System (Operation, Control and Monitoring from DCS at CCR).**
- **The I & C System will be configured to perform the following basic functions**

[Emphasis supplied]

E.15 A pictorial representation of the process is extracted below for ease of understanding:

- POWER GENERATION
- END PRODUCTS
- COMBUSTION
- MATERIAL PROCESS
- **Electrical Overhead Traveling Grab Crane**
- Utes
- ENVIRONMENTAL CONTROLS

E.16 Schedule 1 of the Notification No. 01/2017 dated 28.06.2017 in Sl. No. 234 includes renewable energy devices including Waste to energy plants/ devices and parts for their manufacture.

E.17- From the above, it can be seen that the Electric Overhead Travelling Grab Cranes are to be supplied by the Applicant to the waste to energy project forms a part of the "Waste-to-energy plant". Therefore, it is the understanding of the Applicant that the product "Electric Overhead Travelling Grab Cranes" to be supplied by the Applicant falls under Sl. No. 234 of the Notification No. 01/2017-IGST (Rate) dated 28.06.2017 and consequently, is liable to IGST at the rate of 5%.

F.1 The Applicant submits 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".

F.2 This entry does not specify that the device or parts are required to either produce or 'convert' energy. Therefore, the present IGST Notification not only includes the Electric Overhead Travelling Grab Cranes used in conversion of waste to 'heat energy' but also



includes all the equipment falling under Chapter headings 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.

F.3 Therefore, it is the submission of the Applicant that the rationale of the Electric Overhead Traveling Grab Crane to be supplied by the Applicant for use as a part of the Waste to energy plant falls under Sl. No. 234 of Schedule 1 of Notification 1/2017- Integrated Tax (Rate) attracting IGST at the rate of 5%.

****Further applicant has also submitted his written contention for OPERATION OF CRANE IN WASTE TO ENERGY PLANT ON 11.7.2018 as under**

1. WASTE TO ENERGY MANAGEMENT PLANT

Waste-to-Energy (W t E) plant is waste management facility where Municipal Solid Waste (MSW) is processed and burnt to generate electricity.

2. MUNICIPAL SOLID WASTE (MSW)

Municipal Solid Waste (MSW), commonly known as trash or garbage consisting of everyday items that are discarded by public. MSW is heterogeneous, wet and contains material includes food waste, market waste, yard waste, plastic containers, product packaging materials and other miscellaneous solid waste etc.

3. STORAGE OF MUNICIPAL SOLID WASTE (MSW)

Because of heterogeneous nature of refuse and large-volume storage requirements flat floor storage pit is constructed in the area of 22m x 67m x 30 m (WxLxH) respectively.

MSW comes in trucks to WtE plant and has to be stored in storage pit for drying. Atmosphere inside pit area is hazardous for human activity due to release of toxic gases from degenerating waste in pit. Grab Cranes are exclusively used due to their capabilities in handling heterogeneous materials.

HANDLING OF MSW FOR DRYING AND PROCESSING

The MSW unloaded by truck from 7 meters high ramp forms heap near receiving area and needs to be spread in entire MSW storage pit using cranes.

The MSW in storage pit is re-shuffled daily for faster drying. Thereafter crane will grab to lift MSW into 2 nos. hoppers at height of 23 meter above ground level.

5. HEIGHT AT WHICH THE CRANES ARE INSTALLED.

Area of movement and height hopper requires Cranes to be installed at height above hopper. Accordingly cranes are installed at 31.5 metres above ground level.

6. QUANTITY OF MSW TO BE HANDLED BY CRANES

Handling of heterogeneous nature of MSW from unloading area to storage area for stacking is 89 tons per hour + 105 ton per hour for feeding into shredded hopper +82 ton per hour RDF stacking + 100 ton feeding into boiler hopper.

7. MSW CAN BE HANDLED BY CRANES

Such large quantity of MSW per day to be handled and that too from level ranging from 7 meters below and 23 meter above ground it is necessarily needs a crane. When MSW comes to plant is entangled into rags and for lifting it needs heavy pull which is provided by crane.



8. MSW IS PROCESSED BEFORE FEEDING IN THE BOILER -

MSW collected from homes is heterogeneous, wet and contains material includes food waste, market waste, yard waste, plastic containers, product packaging materials and other miscellaneous solid waste and stones/metal pieces. Such heterogeneous waste cannot be fed into boiler without process of drying and segregation of stones and metal pieces from MSW.

9. FEEDING THE HOPPERS OF THE BOILERS FROM STORAGE PIT.

Feeding rate is to be regularly adjusted based on boiler operation and always changing quality of fuel. MSW to Energy plant all over the world use EOT cranes with Grabs for handling and feeding of waste to boilers.

10. CRANE ARE REQUIRED DUE TO AIR POLLUTANT AND UNCONTROLLED EMISSION -

MSW handling cranes are specifically designed for use with cactus type special grab having inbuilt hydraulic unit for opening and closing of grab. Due to smell and un-hygienic surrounding above MSW storage pits cranes are operated from control station at fixed remote location using monitoring with help of cameras because of.

11. ESSENTIAL REQUIRMENT OF CRANE IN WEE PLANT -

Looking at nature, volume, handling of MSW and operation of the WtE plants installation of crane is EOT crane can't be avoided and it is indispensable.

03. CONTENTION - AS PER THE CONCERNED OFFICE

M/s. Mukand Limited vide their application dated 2/5/2018, has applied for advance ruling on the issue - Whether the Overhead Traveling Crane to be supplied by the applicant to the buyer for use in the waste-to-energy project, for generation of Power from Municipal Solid Waste is classifiable as "Renewable energy devices and parts for the manufacture of waste to energy Plants/devices" attracting 5% levy under Sl. No.234 of Schedule I of Notification 1/2017 dated 28/6/2017.

In support of their contention, it is stated by them that the product proposed to be supplied is undisputedly covered under tariff heading 84 of Customs Tariff Act, 1975 which deals with Nuclear Reactors, boilers, machinery, and mechanical appliances, parts thereof.

Schedule of the Notification No. 1/2017-Integrated Tax (Rate) provides the list of goods that attract IGST at the rate of 5% and at Sl. No. 234 it notifies Chapter headings 84 or 85 and the Description of Goods as "Following renewable energy devices & parts of their manufacture

- (a) Bio-gas plant
- (b) Solar power based devices
- (c) Solar power generation 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

The applicant, M/s. Mukand Limited is a Public Limited Company and are engaged in manufacture and supply of special and alloy steels and various types of cranes for heavy materials handling solutions, handling cargo at ports, etc. including overhead Traveling Cranes (and parts thereof) for handling waste for Industrial Captive.



Apart from manufacturing, the Applicant also provides aftermarket services to its customers.

As per the question on which advance ruling is required by the applicant is "Whether the Overhead traveling Crane to be supplied by the applicant to the buyer for use in the waste-to-energy project is classifiable as 'Renewable energy devices and parts for the manufacture of Waste to energy plants/devices', attracting 5% levy under Sl. No. 234 of Schedule 1 of Notification 1/2017-Integrated Tax (Rate) dated 28.06.2017. As per the Duty conditions given by the assessee the EOT Cranes with Hydraulically operated Grabs are proposed to be used for the following operations:

Crane - 1

- Handling of fresh mixed Municipal Solid Waste (MSW) from heaps formed in pit by tipping vehicles
- Moving MSW from unloading area to storage heaps within the pit.
- Transferring partially dried MSW from storage heaps to hoppers for processing/segregation.

Crane -2

- Handling processed MSW/Refuse Derived Fuel (RDF) from heaps formed in pit by tipper conveyor and spreading for storage in RDF Storage Pit.
- Transferring RDF/MSW from storage heaps to hoppers for Boiler Feed.

Considering the description of the product provided by the assessee along with the Notification 1/2017 - Integrated Tax (Rate), it is to be seen whether EO Renewable energy device and parts for the manufacture of Waste to energy plants/devices. On analysis of the project description, the said product neither falls under the category of Renewable energy devices - (e) Waste to energy plants/devices nor under parts for their manufacture - (e) Waste to energy plants/devices.

Going further, the applicant is the manufacturer and supplier of various Overhead Cranes and these types of Overhead cranes are not for specific use for the said project and the applicant's contention that it is tailor-made is not acceptable and can be used in various other projects. A crane is a type of machine, generally equipped with a hoist rope, wire ropes or chains, and sheaves, that can be used both to lift and lower materials and to move them horizontally. It is mainly used for lifting heavy things and transporting them to other places.

As per harmonized system of Nomenclature, the classification of goods shall be governed by General Interpretative Rules (GIR) and Rule 3 (a) of GIR states that when by application of Rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected, the heading which provides the most specific description shall be preferred to headings providing a more general description.

Further, the predominant or principal or primary use which has to be taken into consideration i.e. lifting of the Municipal Solid Waste (MSW) cannot be classified under Renewable energy devices and parts for the manufacture of Waste to energy plants/devices. Therefore the end use is not relevant for classification as much as the basic identity of the goods, tariff entry and market parlance.

The definition of manufacture under Section 2 (72) of CGST Act, 2017 is "manufacture" means processing of raw material or inputs in any manner that results in the emergence of a new product having a distinct name, character and use and the term "manufacture" shall be construed accordingly."

As per the product's duty conditions provided by the assessee, the activities carried out by the EOT cranes are Handling of fresh mixed Municipal solid waste (MSW) from heaps formed in pit by tipping vehicles, Moving MSW from unloading area to storage



heaps within the pit, transferring the partially dried MSW from storage heaps to hoppers for processing/ segregation, handing processed MSW/ Refuse Derived Fuel (RDF) from heaps formed in pit by tipper conveyer and spreading for storage in RDF Storage Pit and transferring RDF/MSW from storage heaps to hoppers for Boiler feed.

None of the above mentioned activities amount to the definition of "manufacture" as per Section 2 (72) of CGST Act, 2017. Hence the Overhead traveling Crane to be supplied by the applicant to the buyer for use in Waste to energy project is not classifiable as 'Renewable energy devices and parts for the manufacture of waste to energy Plants/devices.

In view of all the above contentions, it is opined that the Overhead travelling Cranes proposed to be supplied to the waste-energy project cannot be classified under Sl. No. 234 of Schedule I of Notification No. 1/2017- Integrated Tax (Rate) dated 28/6/2017.

04. HEARING

The Preliminary hearing in the matter was held on 26.06.2018, Sh. Jai Singh Yadav, applicant along with Sh. Upendra Maskar Accountant appeared and made oral & written contentions as per their ARA. Jurisdictional Officer Ms. Shruti Vijay Kumar Asstt. Comm., Division – VI, Thane Commissionerate along with Ms. Sujaya Vaidyanathan, Supt. appeared and stated they have made written submissions and would be making another submissions in due course.

The final hearing was held on 11.07.2018, Sh. Sh. Jai Singh Yadav, applicant along with Sh. S. S. Saini, Deputy Chief of Marketing appeared and made oral and written submissions. Jurisdictional Officer Ms. Shruti Vijay Kumar Asstt. Comm., Division – VI, Thane Commissionerate along with Sh. Manpreet Singh, Inspector appeared and made oral contentions and submitted case laws.

05. OBSERVATIONS

1. We have gone through the facts of the case and written submissions made in the matter. The applicant, M/s. Mukund Limited is a Public Limited Company and is engaged in manufacture and supply of special and alloy steels and various types of cranes for heavy materials handling solutions, handling cargo at ports, etc. including overhead Traveling Cranes (and parts thereof) for handling waste for Industrial Captive. Apart from manufacturing, the Applicant also provides aftermarket services to its customers.

2. The applicant have received the purchase order from M/s Jindal Urban Waste Management [Guntur] Ltd for design, manufacture, and supply of Waste TO Energy [W t E] plants EOT Grab crane package to JUIL's Guntur Waste to Energy Projects for on site Basis as per their PO no 4500015564 dt.20.2.2018 .The customer has placed the order for two cranes having capacity of 15 T EOT crane with 8.0 CUM Smag peiner make Grab and 2 years , O and M spares for 2 *600



TPD Guntur , AP India project. Thus present transaction is a proposed transaction for which applicant is seeking an advance ruling.

3. Applicant submitted that the Electric Overhead Travelling Grab Cranes that are to be supplied by the Applicant to the waste to energy project forms a device /part of the "Waste-to-energy plant". Therefore, it is the understanding of the Applicant that the product "Electric Overhead Travelling Grab Cranes" to be supplied by the Applicant falls under Sl. No. 234 of the Notification No. 01/2017-IGST (Rate) dated 28.06.2017 and consequently, is liable to IGST at the rate of 5%. As per serial no. 234 of Schedule 1 of the Notification No. 01/2017 dated 28.06.2017 renewable energy devices including Waste to energy plants/ devices and parts for their manufacture attract GST @5%.

4. The applicant further submitted that this entry does not specify that the device or parts are required to either produce or 'convert' energy. Therefore, the present IGST Notification not only includes the Electric Overhead Travelling Grab Cranes used in conversion of waste to 'heat energy' but also includes all the equipment falling under Chapter headings 84 or 85 of the Customs Tariff Act, 1975 used in the entire process of converting waste to energy from the dumping pit to electricity generator. Therefore, it is the submission of the Applicant that the rationale of the Electric Overhead Traveling Grab Crane to be supplied by the Applicant for use as a part of the Waste to energy plant falls under Sl. No. 234 of Schedule 1 of Notification 1/2017-Integrated Tax (Rate) attracting IGST at the rate of 5%. In view of this the applicant has asked following question on which advance ruling is required -

Whether the electrical Overhead travelling grab Crane to be supplied by the applicant to the buyer for use in the waste-to-energy project is classifiable as 'Renewable energy devices and parts for the manufacture of Waste to energy plants/devices', attracting 5% levy under Sl. No. 234 of Schedule 1 of Notification 1/2017-Integrated Tax (Rate) dated 28.06.2017."

5. In view of this we need to examine notification number 1/2017-Integrated Tax Rate) dated 28th June 2017 and specifically the entry at serial number 234 which specifies that renewable energy devices and parts for their manufacture are liable to IGST @5%. For the sake of understanding the notification entry is reproduced as under-

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
------	----------------	--

From the above notification it is seen that the prescribed rate of tax @ 5 % is applicable to those supplies which are renewable energy devices & parts for their manufacture. Thus to avail the benefit of notification entry as above applicant has to satisfy two conditions namely, that the goods must be covered by chapter heading 84 , 85 or 94 and secondly the goods shall satisfy the description “renewable energy devices & parts for their manufacture and the applicant is claiming their goods would be covered under entry (e) of this Sr. No.234 of this notification which reads as under waste to energy plants /devices. .

Now we examine the classification of Electric Overhead Travelling Grab Cranes as per CTH and see whether the goods are covered under chapter heading 84 or 85 of the Central Excise tariff code.

Chapter heading 84 is related with Nuclear reactors, boilers, machinery, and mechanical appliances, parts thereof. The relevant Tariff heading with sub heading and Tariff Items are produced herewith.

The Tariff heading 8426 covers the items SHIP'S DERRICKS; CRANES INCLUDING CABLE CRANES; MOBILE LIFTING FRAMES, STRADDLE CARRIERS AND WORKS TRUCKS FITTED WITH A CRANE. The details as under thus-

327.	8426	Ship's derricks; cranes including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane	SHIP'S DERRICKS; CRANES INCLUDING CABLE CRANES; MOBILE LIFTING FRAMES, STRADDLE CARRIERS AND WORKS TRUCKS FITTED WITH A CRANE	8426	SHIP'S DERRICKS; CRANES INCLUDING CABLE CRANES; MOBILE LIFTING FRAMES, STRADDLE CARRIERS AND WORKS TRUCKS FITTED WITH A CRANE	
					<i>Overhead travelling cranes, transporter cranes, gantry cranes, bridge cranes, mobile lifting frames and straddle carriers :</i>	
				8426 11 00	-- Overhead travelling cranes on fixed support	
				8426 12 00	-- Mobile lifting frames on tyres and straddle carriers	
				8426 19 00	-- Other	
				8426 20 00	-- Tower cranes	
				8426 30 00	-- Portal or pedestal jib cranes	
					-- <i>Other machinery, self-propelled :</i>	
				8426 41 00	-- On tyres	
				8426 49 00	-- Other	
					-- <i>Other machinery :</i>	
				8426 91 00	-- Designed for mounting on road vehicles	
				8426 99	-- <i>Other :</i>	
				8426 99 10	-- Ropeway and telfers	
				8426 99 90	-- Other	

The Applicant is claiming to supply the 15 T EOT crane with 8.0 CUM Smag peiner make Grab i.e. the Electric Overhead Travelling Grab Cranes [2 quantity] to the waste to energy project . The above cranes are the overhead travelling cranes on fixed support. It is attached to the main plant, at the project site .From the above table we find that the impugned product is classifiable under Tariff heading 84261100 as ‘overhead travelling cranes on fixed support’. Thus applicant satisfies first condition that the goods are covered chapter 84.

Now we turn to the next aspect of the notification to find out whether the impugned goods i.e. Electric Overhead Travelling Grab Cranes is a device or parts for the manufacture of especially waste to energy plants / devices. The Word devices and parts are not defined under the provision of IGST Act or Rules or the notifications issued thereunder. We may refer to the dictionary

meaning of the words. The dictionary meaning of devices is as - The Devices means - an object or machine that has been invented to fulfill a particular purpose:

Noun

Plural noun: devices

1. a thing made or adapted for a particular purpose, especially a piece of mechanical or electronic equipment.

"a measuring device"

synony implement, gadget, utensil, tool, appliance, piece of equipment, apparatus, piece of

ms: apparatus, piece of

hardware, instrument, machine, mechanism, contrivance, contraption, invention, convenience, amenity, aid; More

Parts means- a separate piece of something, or a piece that combines with other pieces to form the whole of something

The dictionary meaning reveals that EOT Grab Cranes is a device. Further we find from the document submitted by the applicant such as the copy of Purchase order , details of commercial terms and conditions and technical specifications and scope of supply and services in annexure 2 and 3.the details of map, drawing ,designs of Waste to Energy Projects for on site Basis of plant location wise position of cranes , design, drawing and Map of project , that EOT Grab Cranes is an integral device cum part of waste to energy plant as proposed and details submitted before this authority. The essentiality and integral nature of this device cum part of waste to energy plant get support from details pertaining to operation of cranes in waste to energy plant as presented and detailed in their submissions by the applicant before this authority. Thus we find that EOT Grab Cranes are integral part of the Waste to Energy Plants project for manufacturing and generation of end product of electricity and therefore the EOT Grab Cranes being used in waste to energy plant as per details given in present case clearly fall under serial no. 234 of schedule of notification 1/2017 – Integrated Tax (Rate) and liable to IGST @5%.

Applicant has referred to various case laws in their submission which are duly considered in the present proceeding. Since as per detailed discussions above we find that the EOT Grab Cranes fall under serial no. 234 of schedule of notification 1/2017 – Integrated Tax (Rate) and liable to IGST @5%, we do not feel the need to discuss these case laws.

06. In view of the 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- 18/2018-19/B-

77

Mumbai, dt.

30/07/2018

For reasons as discussed in the body of the order, the questions are answered thus –

Question 1. - Whether the “Electric Overhead Traveling Grab Crane (EOT Grab Crane)” to be 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 1/2017 dated 28.06.2018- IGST (Rate) as 'Renewable energy devices and parts for the manufacture of waste to energy plants/devices', attracting 5% levy.

Answer: - Answered in the affirmative.



— sd —

B. V. BORHADE
(MEMBER)

— sd —

PANKAJ KUMAR
(MEMBER)

CERTIFIED TRUE COPY

[Signature]
MEMBER

**ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI**

Copy to:-

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

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