

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No-107, 1st floor, B-Wing, Old 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		27AAACF0605R1ZJ
Legal Name of Applicant		FLUID POWER PVT LTD
Registered Address/Address provided while obtaining user id		40-E Municipal Compound Keshavrao Khadye Marg, MUMBAI - 400011 Maharashtra.
Details of application		GST-ARA, Application No. 05 Dated 16.04.2019
Concerned officer		Asstt. Commr. of S.T.(MUM-VAT-D-830)Nodal -3, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Factory/ Manufacturing
B	Description (in brief)	Our company is a Small Scale Engineering Industry registered under M.S.M.E.D. Act and specializes since the past 51 years in design and manufacture of customised hydraulic equipment for use in Dams (Irrigation Projects), Marine Vessels, Marine Barges, Offshore Structures, Nuclear Power Plants, Steel Plants, Hydro Electric Power Stations, Defence Equipment, etc.
Issue/s on which advance ruling required		(ii) Applicability of a notification issued under the provisions of this Act (iv) Admissibility of input tax credit of tax paid or deemed to have been paid (v) determination of the liability to pay tax on any goods 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” respectively] by M/s. **FLUID POWER PVT LTD**, the applicant, seeking an advance ruling in respect of the following questions.

1] Applicability of GST @ 5% (CGST of 2.5% and SCGT of 2.5%) or IGST @ 5% for the above mentioned Marine Duty hydraulic equipment, which is being designed and custom built by us for being fitted on a Barge falling under Serial No 246 of Schedule. I of GST Notification No 1/2017 dated 28th June 2017, and its Parts falling under Serial No. 252 of Schedule I of GST Notification No. 1/2017, which are essentially required for the functioning of barge.

2] Whether we can claim input tax credit in respect of indigenous and imported inputs which are being used for manufacture of the above equipment, if GST on the equipment manufactured by us is determined as 5% in terms of Notification No 1/2017 dated 28th June 2017.

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 any 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, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION - AS PER THE APPLICANT

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

“Our company is a Small Scale Engineering Industry registered under M.S.M.E.D. Act and specializes since the past 51 years in design & manufacture of customised hydraulic equipment for use in Dams (Irrigation Projects), Marine Vessels, Marine Barges, Offshore Structures, Nuclear Power Plants, Steel Plants, Hydro Electric Power Stations, Defence Equipment, etc.

The hydraulic equipment / products are designed by us to suit the individual application /end use of each customer, after studying their operational and functional requirements. Thereafter drawings are prepared & submitted to the customer for approval. After approval of drawings, the products are tailor manufactured & their capacities, sizes, dimensions and mounting configurations are maintained to suit the requirement of each individual equipment on which they have to be fitted.

In the present case, we are supplying the following items to our customer M/s Mandovi Drydocks in Goa.

A] Marine Duty Hydraulic Cylinders and Hydraulic Power Pack employed for splitting of the barge hull for mid sea discharge its cargo.

B] Marine Duty Hydraulic Mooring Winches for positioning of the barge and also for anchoring the barge.

B] 1 No. Marine Duty Hydraulic Mooring Winch for positioning of the barge and also for anchoring the barge. These winches will be operated by the Hydraulic Power at [B] above.

All items referred to above, are being designed, custom manufactured and supplied by us, and are essential parts of the Barge, without which the Barge will neither be complete nor capable of performing its required functions, i.e. they are integral for the functioning of the barge.

We are manufacturing Marine Duty Hydraulic Cylinders and Hydraulic Power Packs falling under HSN Nos. 84122100 and 84798999 respectively, on which GST is applicable @ 18%. These are to be fitted on a 850 Cu. M. Barge for Opening and Closing of the Hull, which requires an axial force of 750 tons and will be provided by the above hydraulic equipment.

We are also manufacturing Marine Duty Hydraulic Mooring Winch falling under HSN No. 84251920, on which GST is applicable @ 18%. This Winch will be fitted on the deck and used for mooring / positioning of the barge and also lowering and raising the anchor. The technical parameters such as pulling torque, line speed, drum size, braking arrangement, etc, are designed and custom built to suit the requirement of each vessel and its anchor arrangement.

Item at Sr. No. 246 of Schedule I of GST Notification No. 1/2017 reads as under :

Chapter / Heading : 8901

Description of Goods : Cruise ships, excursion boats, ferry-boats, cargo ships, **barges and similar vessels** for the transport of persons or goods.

Item at Sr. No. 252 of Schedule I of GST Notification No. 1/2017 reads as under :

Chapter / Heading : **Any Chapter**

Description of Goods : **Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907**

Our customer has informed that the notified rate of GST for all goods listed in Schedule I of Notification No: 1/2017 dated 28th June 2017, as amended, is 5% and hence if we charge them 18%, our prices will become uncompetitive (copy of mail is annexed herewith as Exhibit-1). They have also provided us with a copy of the Tax Invoice of Marine Engine purchased by them from M/s Cummins India Ltd on which GST has been charged @ 5% (copy is annexed herewith as Exhibit-2).

The question of what constitutes a part of a ship / marine vessel has already been dealt with in great detail and decided by relying on various judgments, in the Observations made by the Hon'ble Advance Ruling Authority in Application No. 28 dated 21.02.2018 (revised on 14.05.2018) of M/s Mazagon Dock Shipbuilders Ltd and Order passed therein on 11.07.2018, and hence the same being a settled matter is not being dealt with by us in this application.

The items referred to above, which are being designed, custom manufactured and supplied by us, are essential parts of the Barge, without which the Barge will neither be complete nor capable of performing its required functions, i.e. they are integral for the functioning of the barge.

REQUEST FOR ADVANCE RULING IN RESPECT OF FOLLOWING:

In view of the foregoing facts, we respectfully seek an Advance Ruling from this Hon'ble Authority in respect of the following.

- 1] Applicability of GST @ 5% (CGST of 2.5% and SCGT of 2.5%) or IGST @ 5% for the above mentioned Marine Duty hydraulic equipment, which is being designed and custom built by us for being fitted on a Barge falling under Serial No 246 of Schedule. I of GST Notification No 1/2017 dated 28th June 2017, and its Parts falling under Serial No. 252 of Schedule I of GST Notification No. 1/2017, which are essentially required for the functioning of barge.
- 2] Whether we can claim input tax credit in respect of indigenous and imported inputs which are being used for manufacture of the above equipment, if GST on the equipment manufactured by us is determined as 5% in terms of Notification No 1/2017 dated 28th June 2017,

3A. Relevant Provision of GST Law:

We are presently executing an Order of M/s Mandovi Drydocks, Goa, for design, manufacture, supply and commissioning of custom built Hydraulic Equipment which comprises of the following items.

A] 2 Nos Marine Duty, Custom built Hydraulic Cylinders (HSN Code : 84122100) which will be fitted on the Stern and Bow side of the Barge, to generate a force of 750 tons and split its hull by around 30 degrees and discharge the Cargo in mid sea. Both the hydraulic cylinders will remain immersed in sea water & are therefore designed & custom built to suit marine operating conditions.

B] 1 No. Marine Duty Custom Built Hydraulic Power Pack (HSN Code : 84798999) which will operate the above 2 Nos Hydraulic Cylinder for splitting the hull to discharge the materials and thereafter closing the hull. The Power Pack will provide pressurised hydraulic oil at 270 bar for operation of the hydraulic cylinders through various control valves and pipelines running along the length of the barge.

C] 1 No. Marine Duty Hydraulic Mooring Winch of 10 Tons Pulling Capacity (HSN Code : 84251920) which will be fitted on the deck of the barge and used for mooring / positioning of the barge and also lowering and raising the anchor.

All the above items are specifically designed and custom manufactured by us to suit the hull dimensions of the barge being built by M/s Mandovi Drydocks, and its load holding capacity of 750 tons (volume of 850 Cubic Meters) and therefore cannot be employed for any other use. The above items are essentially required for operation of the barge, without which it cannot perform the function for which it is built.

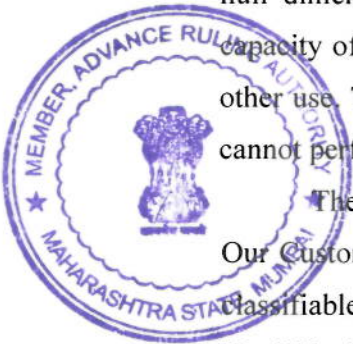
The Normal rate of GST applicable on all the above items falling in Chapter 84 is 18%. Our Customer has informed us that since the above parts are being fitted on a Barge, they are classifiable as "Parts of goods of heading 8901, 8902, 8904, 8905, 8907" falling under Entry No. 252 of Schedule I of GST Notification No. 1/2017, and therefore GST IS applicable. @ 5% (CGST-2.5% AND SGST-2.5%) or IGST @ 5%.

Additional submissions

We refer to the hearing held on 22.05.2019 and the written submission made by the Ld Asst. Commissioner (D-830, Nodal 3) on three grounds, in response to our application made to the Advance Ruling Authority. Our Point wise submissions in respect of each of the three grounds raised by the Ld, Asst. Commissioner are furnished below.

POINT NO. 1:

The main contention raised in Point No. 1 by the Ld. Asstt, Commissioner is that **From submission of the applicant, function of the barge for which it is put to use is not clearly ascertainable"**



The above contention of the Ld Asst. Commissioner is not sustainable as the function of the Barge has been very clearly stated repeatedly in our Application. We are furnishing below the relevant extracts of our application wherein the function and use of the barge have been mentioned.

A] In Annexure A: "Description in Brief : Here we have very clearly stated in paragraph [A] that **"Marine Duty Hydraulic Cylinders and Hydraulic Power Pack employed for Splitting of the Barge Hull for mid sea discharge of cargo"**.

B] In Annexure B: "Questions on which Advance Ruling is required" : Here we have clearly stated that **"These are to be fitted on a 850 Cu. M. Barge for Opening and Closing of the Hull, which requires an axial force of 750 tons and will be provided by the above hydraulic equipment"**.

C] In Annexure C: "Statement of Relevant Facts having a bearing on the Questions Raised". Here we have very clearly stated the function of Barge and in fact clarified it as under. Paragraph A: **"2. Nos. Marine Duty, Custom Built Hydraulic Cylinders which will be fitted on the Stern and Bow side of the Barge, to generate a force of 750 tons and Split the Hull by around 30 degrees and discharge the Cargo in mid sea"**.

Paragraph B: **"1 No. Marine Duty Custom Built Hydraulic Power Pack which will operate the above 2 Nos. Hydraulic Cylinders for Splitting the Hull to discharge the materials and thereafter closing the hull"**.

From the foregoing facts it will become explicitly clear to the Hon'ble Advance Ruling Authority that the contention of Ld. Asst. Commissioner is not based on facts available on record and hence not sustainable; as the function of the Barge has been very clearly stated repeatedly and also explained in detail in our Application.

Furthermore, no mention has been made by us regarding the use of our hydraulic equipment on a 'Barrack Barge' or on a 'Power Barge' & therefore it is not understood as to why the Ld. Asst. Commr. has made such an interpolative assumption in his submission to this. Hon'ble Authority to justify that it is not covered under entry No. 246 of Schedule I of Notification No. 1/2017.

To put at rest any further doubts regarding the type of barge and its usage, we are enclosing herewith drawing Nos. SBM-19-1011-216 and SBM-19-1011-217 (duly approved by internationally recognised Marine Classification Society **Indian Registrar of Shipping**) which clearly show our Hydraulic Cylinders fitted in the hull on the Forward and Aft side of the barge, with dimensions of the Cylinder which are unique to the hull design of this barge. We are also enclosing herewith drawing Nos, SBM-19-1011-502 and SBM-19-1011-602 (duly approved by **Indian Registrar of Ship** which clearly shows our Hydraulic Power Pack Fitted



in the Engine Room of the barge, A perusal of these drawings will show that the Hydraulic Power Pack has been specifically designed and manufactured to suit the Engine Room Layout of this barge. All the above drawings clearly state the description as "850 Cu, M. SELF PROPELLED SPLIT HOPPER BARGE":

POINT NO. 2:

The main contention raised in Point No. 2 by the Ld. Asst. Commissioner is that **"Marine Duty hydraulic Cylinders are used for variety of purposes in shipping world. Certainly it's not the only or primarily used as hydraulic cylinder to split the hull of the barge. Hence, in present case it cannot be considered as an essential part of the barge"**

The above contention of the Ld Asst. Commissioner is not sustainable on the following grounds.

A] In Annexure A: In "Description in Brief" we have very clearly stated as under :

"The Hydraulic Equipment/Products are designed by us to suit the individual application/end use of each customer, after studying their operational and functional requirements, Thereafter, drawings are prepared and submitted to the customer for approval. After approval of drawings, the products are tailor manufactured and their capacities, sizes, dimensions and mounting configurations are maintained to suit the requirement of each individual equipment on which they have to be fitted.

From the foregoing facts it will become explicitly clear to this Hon'ble Authority that the contention of Ld. Asst. Commissioner is not sustainable on the following grounds :

A] The Hydraulic Cylinders are TAILOR MADE with their CAPACITIES, DIMENSIONS, SIZES, MOUNTING CONFIGURATIONS and FORCE GENERATION to suit the specific equipment on which they have to be fitted, Consequently, these Hydraulic Cylinders cannot be fitted on any other equipment.

B] Such huge size marine duty Hydraulic Cylinders (each weighing approx. 6,5 tons) and their Power Pack (weighing approx. 2.5 tons) which are designed and tailor manufactured to generate a massive force of $375 \times 2 = 750$ tons required for splitting the hull sections of a 850 CU. M. loaded barge, manufactured with mounting configuration to suit the hull dimensions of the barge, and construction to suit working in sea water, cannot by any stretch of imagination be used for other applications such as Steering Control, Cranes, Hatch Closure, etc; as contended by the Ld. Asstt Commissioner, as these are entirely different applications and their hydraulic cylinders are very much smaller in sizes, capacities and configurations,

C] To put at rest any doubts about the usage of Hydraulic Cylinders and Power Pack, we are enclosing herewith the following drawings.



- 1] Drawing Nos. SBM-19-1011-216 and SBM-19-1011-217 (duly approved by internationally recognised Marine Classification Society **Indian Registrar of Shipping**) showing therein the Cross-Section of Split Barge Hull in which our Hydraulic Cylinders are shown fitted between the two hull sections which are to be split, on the Forward and Aft side of the barge. Thus, the design and dimensions of our Hydraulic Cylinders are custom manufactured to suit the hull design and dimensions of this Split Barge, and suitable for generating the required Splitting Force of 750 Tons:
- 2] Drawing Nos. SBM-19-1011-502 and SBM-19-1011-602 (duly approved by internationally recognised Marine Classification Society **Indian Registrar of Shipping**) showing therein the Engine Room Layout of Split Barge in which our Hydraulic Power Pack has been housed. The hydraulic control circuit of Power Pack has been designed and custom manufactured to suit the variable flows, pressures and working logic required to operate the hydraulic cylinders for splitting the barge at various loads and splitting speeds. The dimensions of Hydraulic Power Pack and its oil flow pipelines are specifically maintained to suit its fitment inside the engine room of Split Barge, as shown in the above drawings.

In fact, the Hydraulic Cylinders being supplied by us to M/S Mandovi Drydocks cannot even be used on another Split Hopper Barge (let alone for an altogether different application) as the distance between mounting points, mounting configurations, bearing sizes, axial force requirements and working pressure would all be completely different, based on barge design of the Shipyard.

POINT No. 3:

The two contentions raised in Point No. 3 by the Ld. Asst. Commissioner are that,

#1 "Barge is used to transport the material from sea shore to the middle of the sea, where as hydraulic cylinder and its power pack is used to split the hull and drop the material Dropping of material from the barge to sea bottom is a altogether different function from transporting the materials"

#2 "Hydraulic cylinder and power pack are not indispensable to drop the material from the barge. The material can also be dropped from barge by using human labour (non mechanical way) or by using other mechanized instruments like crane."

With regards to the first contention raised above, we have to submit as under.

#1 To address the first issue raised by the Ld. Asst. Commissioner, we must first understand the main purpose of a Split Hopper Barge. It is a vessel with a large material holding chamber (called hopper), used to load and transport material. The barge hopper is loaded with a large quantity of materials by any automated means such as conveyor,



etc. The barge then sails to the designated area in the sea, where it **quickly unloads around 850 Cu. M. of material (weighing around 1000 Tons) within just 3 - 4 minutes.** The barge consists of two halves, and unloading is done by opening or splitting the two halves, and depositing the material on the seabed. **The Hydraulic Cylinders have to ensure that both halves of the hull stay firmly closed and sealed at all times during transportation of the materials i.e. when the barge is fully loaded and in motion, to firstly prevent dropping of loaded materials and secondly ingress of sea water. Therefore, the cylinders are not only required to split the barge and deposit the material on the sea bed, but also crucial to its transportation by keeping the hull closed under loaded condition.** Without the Hydraulic Cylinders, the two halves of hull would open on being loaded with 850 Cu. M. of materials (approx. 1000 Tons), thus preventing it from holding any material in the hopper. Therefore, both functions of 'transporting' and 'discharging' the material go hand in hand and are not exclusive of each other.

#2 The second question to be answered is whether a Hydraulic Cylinder and its operating Power Pack are not indispensable or not essential for the functioning of the Split Barge, and whether the material can be dropped from the barge by using human labour or by using other items like cranes.

To address the second issue raised by the Ld. Asst. Commissioner, we must first understand that the Hydraulic Cylinders and Power Pack employed in this application are specifically designed to perform the following functions.

- 1] Ensure that the hull stays closed during transportation of the barge. That is, the hydraulic cylinders should not open/extend even a little when the barge is in motion, thereby ensuring that material loaded in the hopper is not unintentionally dropped. Special purpose hydraulic system is employed to achieve this.
- 2] Ensure smooth and quick opening of the hull and discharge the transported material of around 850 Cu, Mt. (Approx. 1000 Tons) in just 3 - 4 minutes, thereby saving time and increasing productivity. A specially designed regenerative feed hydraulic system is employed to achieve this. Hence, this is not a typical or regular hydraulic application.

With regard to the submission made by the Ld. Asst. Commissioner that the same process can be done manually by using human labour or by using a crane, we have to submit as under,

1] MANUALLY : It would take several hours and a large work force to manually discharge around 1000 Tons of material, which takes just around 3.- 4 minutes by splitting the hull, and is therefore not a feasible option, apart from it being unsafe.



2] USING CRANE : A crane fitted with a grab bucket of 10 Cu. M. capacity would require 85 turn around cycles to discharge 850 Cu. M. This process would not only take around 3 hours, but is an expensive and slow operation, and hence never used to discharge materials into the sea, which can simply be achieved by splitting the hull of the Split Hopper Barge and achieving the same function in just 3-4 minutes. From the foregoing it will become clear that in order for a Split Barge to function, the Hydraulic Cylinder and Power Pack are indispensable to achieve its core functions of firstly transporting the materials by holding the hull in a closed condition when the barge is moving and secondly by discharging the materials at the precise designated location by splitting the hull. Without the Hydraulic Cylinder and Hydraulic Power Pack, the above functions cannot be achieved.

In view of the foregoing, both the above contentions of the Ld. Asst. Commissioner in Point No. 3 are not sustainable.

03. CONTENTION - AS PER THE CONCERNED OFFICER

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

1. Applicability of GST @ 5% (CGST of 2.5% and SGST of 2.5%) or IGST @ 5% for the above mentioned Marine duty hydraulic equipment, which is being designed and custom built by us for being fitted on a barge falling under Serial no. 246 of Schedule I of GST notification No. 1/2017 dated 28th JUNE 2017, and its parts falling under serial no. 252 of Schedule I of GST notification no. 1/2017, which are essentially required for the functioning of barge.

Point 1 need further clarification:

Serial no. 246 and 252 of Schedule of GST notification No. 1/2017 reads as –

Sr. No.	Chapter heading	Description of goods
246	8901	Cruise ships, excursion boats; ferry boats, cargo ships, " barges and similar vessels for the transport of persons or goods "
252	Any chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907.

Serial no. 246 specifically mentions that "barges and similar vessels for transport of persons or goods". Description of the goods outlines the function of the barge for which it is put to use. The function shall be transport of persons or goods.

There are different types of barges used in shipping world. Like

1. Barracks barge
2. Dry bulk Cargo barges.
3. Power barge:
4. Car float barge.
5. Split Hopper barge.

Of the above types of barges, barracks barge and power barge are not used for transportation of persons or goods. These types of barges are not covered under entry no. 246 of Schedule 1 of GST notification No. 1/2017. From submission of the applicant, function of the barge for which it is put to use is not



clearly ascertainable, neither did the applicant submitted valid specification and function of the barge required by customer (M/S Mandovi Dry docks, Goa). In the absence of the same, it cannot be ascertained whether the barge on which marine duty hydraulic equipment built by the applicant is fitted falls under entry no. 246 of GST notification No. 1/2017.

Point no. 2

The word "Part/Parts" has not been defined in GST nor was it defined in central excise earlier. The general meaning of the word "part/Parts" is "a separate piece of something or a piece that combines with other pieces to form the whole of something" (Cambridge dictionary). in case of Saraswati sugar mills V/S Commissioner of Central excise civil appeal.no. 5295 of 2003 dated 2nd Aug 2011 hon. Supreme Court of India in para 12 observed:

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

In the present case marine duty hydraulic cylinder and marine duty hydraulic power pack are to be fitted on a barge. Hydraulic cylinders are used for variety of purposes in shipping world for example:

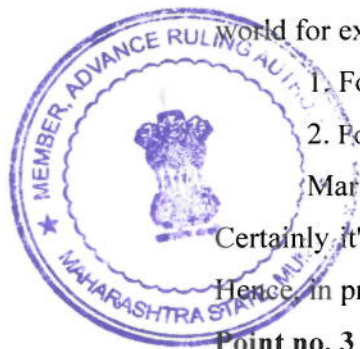
1. For steering control and operational safety of ships (hatch closure).
2. For variety of deck of super structure tasks like for loading/unloading cranes (davit system).

Marine duty hydraulic cylinders are used for variety of purposes in shipping world. Certainly it's not the only or primarily used as hydraulic cylinder to split the hull of the barge. Hence, in present case it cannot be considered as an essential part of the barge.

Point no. 3

Hydraulic cylinder and its power pack are intended to be used for splitting the hull of the barge and drop the material on the sea surface. Barge is used to transport the material from sea shore to the middle of the sea, whereas hydraulic cylinder and its power pack is used to split the hull and drop the material on the sea surface or bottom of the sea. Dropping the material from the barge to sea bottom is altogether different function from transporting the material or goods from sea shore to the middle of the sea.

Hydraulic cylinder and power pack are not indispensable to drop the material from the barge. The material can also be dropped from barge by using human labor (non mechanical way) or by using other mechanized instruments like cranes.



2. **Whether we can claim input tax credit in respect of indigenous and imported inputs which are being used for manufacture of the above equipment, if GST on the equipment manufactured by us is determined as 5% in terms of notification No. 1/2017 dated 28 th June 2017.**

Yes.

04. **HEARING**

Preliminary hearing in the matter was held on 22.05.2019. Sh. P. G. Chhabria, Dy. C.E. appeared and requested for admission of their application. Jurisdictional Officer Sh. Jayankur Chougule, Asstt. Commr. of S.T.(MUM-VAT-D-830) Nodal -3, Mumbai also appeared and made written submissions.

The application was admitted and called for final hearing on 03.08.2019. Sh. P. G. Chhabria, Dy. C.E., appeared & made oral and written submissions. Jurisdictional Officer Sh. Chougule, Asstt. Commr., also appeared and made oral submissions.

05. **OBSERVATIONS**

We have gone through the facts of the case, documents on record and submissions made by both, the applicant as well as the jurisdictional office.

The applicant is a manufacturer of customized hydraulic equipment for use in Dams (Irrigation Projects), Marine Vessels, etc. and the said equipment/products are designed to suit the individual application / end use of each customer, after studying their operational and functional requirements. Their present query is with respect to tailor made Marine Duty Hydraulic Cylinders and Hydraulic Power Pack and Marine Duty Hydraulic Mooring to be supplied by them to M/s Mandovi Drydocks in Goa, their client, which will be used in barges for splitting of the barge hull for mid sea cargo discharge and for positioning and also for anchoring the barge. They have submitted that Marine Duty Hydraulic Cylinders and Hydraulic Power Pack and Marine Duty Hydraulic Mooring, custom manufactured and supplied by them are essential parts of the Barge, without which the Barge will neither be complete nor capable of performing its required functions. They have further submitted that the subject barges, used for transport of goods/cargo, which are discharged mid-sea, fall under Chapter 8901 as per Sr. No. 246 of Schedule I of GST Notification No. 1/ 2017 and the Marine Duty Hydraulic Cylinders and Hydraulic Power Pack and Marine Duty Hydraulic Mooring, are essential parts of such barges and would attract 5% GST as per Sr. No. 252 of Schedule I of GST Notification No. 1/ 2017.

From the submissions made by the applicant we find that Marine Duty Hydraulic Cylinders and Hydraulic Power Packs will be supplied by them to their client M/s Mandovi Drydocks who will be using the same for the barges being manufactured by them. The barges



that will be manufactured will be used for transporting cargo/goods to mid-sea where they would be unloaded/dumped. Hence there is no doubt that such barges would fall under Chapter 8901, as claimed by the applicant.

We need to find now whether the subject goods i.e. Marine Duty Hydraulic Cylinders and Hydraulic Power Packs can be considered as essential parts of the barges on which they are fitted. As per the submissions made by the applicant we find that the subject products would assist the barge in mooring/anchoring and also will be very necessary to split the hull of the barge to discharge the cargo. It has been submitted that the subject goods cannot be employed for any other use and are essentially required for operation of the barge, without which the barge cannot perform the function for which it is built.

From the submissions made by the applicant, we find that the barge will be carrying materials which will be discharged in mid-sea. Therefore it can be assumed that the barge will be used for transporting materials to be unloaded at mid-sea. We also find that the said products, being tailor made for being fitted only on such barges, cannot be used elsewhere and without the same the barge will not be able to function for the purpose for which it is built, namely for unloading materials in mid-sea. Hence the subject products i.e. Marine Duty Hydraulic Cylinders and Hydraulic Power Packs, can be considered as an integral part of such barge and therefore would fall under Sr. No. 252 of Schedule I of GST Notification No. 1/2017 as Parts of goods of headings 8901. GST @ 5% (CGST of 2.5% and SCGT of 2.5%) or IGST @ 5% [under Serial No. 252 of Schedule I of GST Notification No. 1/2017], will be applicable for the above mentioned Marine Duty hydraulic equipment, which is being designed and custom built for being fitted on a Barge falling under Serial No 246 of Schedule. I of GST Notification No 1/2017 dated 28th June 2017.

Now we discuss the second question raised by the applicant as under:

Question No. 2 :- Whether we can claim input tax credit in respect of indigenous and imported inputs which are being used for manufacture of the above equipment, if GST on the equipment manufactured by us is determined as 5% in terms of notification No. 1/2017 dated 28 th June 2017.

Chapter V of the CGST Act, 2017 comprising of Sections 15 to 21, contains provisions pertaining to availment and utilization of Input Tax Credit. Subject to satisfying the provisions of Chapter V, we are of the opinion that the applicant can claim input tax credit in such a situation.

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- 05/2019-20/B-

98

Mumbai, dt.

23/08/2019

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

Question 1:- Applicability of GST @ 5% (CGST of 2.5% and SCGT of 2.5%) or IGST @ 5% for the above mentioned Marine Duty hydraulic equipment, which is being designed and custom built by us for being fitted on a Barge falling under Serial No 246 of Schedule. I of GST Notification No 1/2017 dated 28th June 2017, and its Parts falling under Serial No. 252 of Schedule I of GST Notification No. 1/2017, which are essentially required for the functioning of barge.

Answer :- **Answered in the affirmative.**

Question 2:- Whether we can claim input tax credit in respect of indigenous and imported inputs which are being used for manufacture of the above equipment, if GST on the equipment manufactured by us is determined as 5% in terms of Notification No 1/2017 dated 28th June 2017.

Answer :- **Answered in the affirmative.**




B. TIMOTHY
(MEMBER)


B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY

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.


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.