



**HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,**



**HARYANA VANIJYA BHAWAN, PLOT NO I-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)**

ADVANCE RULING NO.HAR/HAAR/R/2018-19/ 12

(In Application No.: 12/2018-19, dated 19.06.2018)

Name & Address of the Applicant	: M/s Boldrocchi India Pvt. Ltd., 18 th -19 th Floor Tower 4, Office No. 1801-1802-1907, DLF Corporate Green, Sector-74-A, Gurugram (South).
GSTIN of the Applicant	: 06AAFCA7060E1ZZ
Date of Application	: 19.06.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	: (a) Classification of goods and/or services or both (e) Determination of liability to pay tax on any goods or services or both.
Date of Personal Hearing	: 14.08.2018 & 13.09.2018
Present for the Applicant	: Sh. Abhishek, Manager (Fin. & Accts.) alongwith Sh. Rijul Kalra, Asst. Manager (Proposals).

1. M/s Boldrocchi India Pvt. Ltd., 18th 19th Floor, Tower-4, Office No.1801, 1802 1907, DLF Corporate Green, Sector-74A, Gurgaon, Haryana [hereinafter referred to as the "applicant"], has submitted that their customer is setting up a waste to energy plant in Andhra Pradesh and for which they require WTE PLANT BOILER'S FLUE GAS CLEANING SYSTEM. The customer has also requested to supply these goods under Chapter 84 charging tax @5% according to the said entry as under:-

- Following renewable energy devices & parts for their manufacture.
 - (a) Bio-gas-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

2. That the applicant is supplying WTE PLANT BOILER'S FLUE GAS CLEANING SYSTEM (to the customer's address at Andhra Pradesh) and the same is classified under HSN Code 84051090 attracting GST @5%. The supply mainly includes supply from Boldrocchi Sub Vendor's Factory (within India) to Customer's Address directly as well as some supply may be from Boldrocchi's factory to Customers address.

3. That according to applicant's interpretation, Sr. No. 234 of schedule I of rate of tax, specifically defines that renewable energy devices for manufacturer of renewable energy plants would come under 5% category and also these would fall under HSN Code 84/85. Therefore supply of WTE plant boilers flue gas cleaning system (FGCS) 600 TPD to waste to energy project would be under HSN Code 84 and rate of tax would be 5%.

b

Sangeeta

4. The applicant further submits that:

1. The HSN Code No. 84 05 10 90 clearly mentions "waste to energy plants/devices" which implies the applicability of 5% GST.

2. The Ministry of Finance and Ministry of New and Renewable Energy has specifically exempted such equipments and machinery from indirect taxes in the past also. Further the conditions of law in GST remains the same and govt intends to promote the use of Renewable Energy by categorizing Waste to Energy Plants and their devices at 5% IGST. This fact can be verified from the Notification No. 33/2005 Central excise and F. no. 460/44/2005-Cus V dated 03.09.2005 (attached herewith) issued by Ministry of Finance and also by certificate No. 10/05/2005- UICA- Part file dated 06.10.2010 issued by Ministry of New and Renewable Energy to M/s Timarpur Okhla Waste Management Private Limited.

3. The purchase order copy clearly mentions that it is for "manufacturing and supply of waste to energy plant boilers fuel gas cleaning system (FGCS) package to JUL'S Guntur waste to energy project"

Thus the package is specifically supplied for the conversion of waste to energy. According to the PO the complete system package is specifically for waste to energy project and hence covered under HSN Code 84051090 chargeable at 5% IGST.

5. Questions on which ruling has been sought by the applicant, are as under:

[Section 97(2)(a) and (e)] - Clarify the HSN Code and the applicable rate of tax under the Goods and Service Tax Act, 2017 on the of WTE plant boilers flue gas cleaning system (FGCS) as specified in annexure B attached in the application.

RECORDS OF PERSONAL HEARING – 2ND PROVISIO TO SECTION 98(2) OF CGST/HGST ACT, 2017

6. Opportunity for personal hearing was granted to the applicant on 14.08.18, which was attended by Sh. Abhishek, Manager (Finance &Accounts). Sh. Ashok Setia, ETO O/o DETC (ST), Gurugram (South) had attended the proceedings as concerned officer. The applicant had reiterated the submissions made in their application. Since, the ruling sought was covered under section 97 (2), clause (a) and (b), the application was admitted and after hearing the applicant and concerned officer in detail, the decision on merit was reserved which is being released today.

DISCUSSIONS AND FINDINGS OF THE AUTHORITY

7. We have carefully gone through the facts and records of the case. In the instant case, the applicant seeks advance ruling in the matter of classification and rate of GST applicable on the parts being supplied for setting up waste to energy plant.

8. The functioning of the waste to energy plant has been explained by the applicant in the following manner, which includes collection/storage of Municipal Solid Waste at site and involves following processes.

(i) Mechanical Sorting.

(iii) Burning of sorted municipal solid waste in boiler for combustion and steam generation

(iii) **Flue Gas Cleaning System** – In order to control air pollution, provisions are made in the combustion system of boilers to minimize the level of pollutants present in the flue gas coming out of the boiler. Further treatment is required to bring the levels below the prescribed values as per prescribed norms. The flue gas treatment system consisting of lime and activated carbon injection system, quenching chamber and reaction tower followed by bag filters ensure compliance to the prescribed regulation.

Process control for the flue gas treatment facility consists of three loops, in which the first loop continuously controls the flow of re-circulated absorbent to the reactor by continuously monitoring the quantity of flue gas. The second loop is controlled by a

Sampath

temperature measurement of the outlet gas, which ensures that the flue gas is cooled down by controlling the quantity of water sprayed. The third loop is used to control the adding quantity of fresh slaked lime powder through acid gas (HCL, SO₂) of the outlet loop. Flue gas flowing out from the reactor then goes into the bag filter for removal of micro particles including hazardous substances.

- (iv) Turbine
- (v) Air cooled condenser.

10. The applicant seeks the HSN classification code for the above explained "waste to energy plant boiler's flue gas cleaning system", as explained in para 7(iii) above. As per the functioning/working of the impugned product, it is a pollution control device which merits classification in chapter heading 8421, which is also reproduced below.

8421 CENTRIFUGES, INCLUDING CENTRIFUGAL DRYERS; FILTERING OR PURIFYING MACHINERY AND APPARATUS, FOR LIQUIDS OR GASES

	- Centrifuges, including centrifugal dryers:
8421 11 00	-- Cream separators u 7.5% -
8421 12 00	-- Clothes-dryers u 7.5% -
8421 19	-- Other :
8421 19 10	--- Bowl centrifuges u 7.5% -
8421 19 20	--- Basket centrifuges u 7.5% -
8421 19 30	--- Continuous automatic centrifuges u 7.5% -
8421 19 40	--- Self cleaning centrifuges u 7.5% -
8421 19 50	--- Decanter centrifuges horizontal bowl u 7.5% -
8421 19 60	--- Screw conveyor centrifuges u 7.5% -
	--- Other :
8421 19 91	---- For chemical industries u 7.5% -
8421 19 99	---- Other u 7.5% -
	- Filtering or purifying machinery and apparatus for liquids:
8421 21	-- For filtering or purifying water :
8421 21 10	--- Ion exchanger plant or apparatus u 7.5% -
8421 21 20	--- Household type filters u 10% -
8421 21 90	--- Other u 7.5% -
8421 22 00	-- For filtering or purifying beverages other than water u 7.5%
8421 23 00	-- Oil or petrol-filters for internal combustion engines u 7.5%
8421 29 00	-- Other u 7.5% -
	- Filtering or purifying machinery and apparatus for gases:
8421 31 00	-- Intake air filters for internal combustion engines u 7.5% -
8421 39	-- Other :
8421 39 10	--- Air separators to be employed in the processing, smelting or refining of minerals, ores or metals; air strippers u 7.5% -
8421 39 20	--- Air purifiers or cleaners u 7.5% -
8421 39 90	--- Other u 7.5% -
	- Parts :
8421 91 00	-- Of centrifuges, including centrifugal dryers u 7.5% -
8421 99 00	-- Other u. 10% -

Thus, the impugned product is classifiable under heading 8421 of the first schedule to the Customs Tariff Act, 1975, being filtering or purifying machinery and apparatus for gases.

11. As regards rate of GST on this product "waste to energy plant boiler's flue gas cleaning system" falling under chapter heading 8421, it is observed that in modern day power plants, even those running on municipal waste, such as waste to energy plants/devices, pollution control equipment/machinery is an integral part of such power plants without which these plants will not be allowed to operate due to pollution hazards. Thus, these pollution control devices/machinery also being an integral part of such power plants, can be classified is

b.

Subject

devices/parts of "Waste to Energy plants/devices", provided these pollution control devices are used in such plants. Hence, the answer to question whether this equipment is part of "waste to energy plant/device" would depend upon the fact of it being used so. From the working of impugned device, it can be inferred that this device can also be used as pollution control equipment in other power plants as well, which may be based on other fuel, such as fossil fuel, etc. Thus, this impugned item cannot be called as part of "waste to energy plants/devices" in generalized manner, as it would depend upon its actual use.

12. Thus, it emerges that the impugned item supplied by the applicant is pollution control device classifiable under chapter heading 8421 of the first schedule to the Customs Tariff Act, 1975 and when the same is supplied for being used in "waste to energy plants/devices" the same would be covered by Sr. No. 234 of schedule I of Notification No.01/2017-Central Tax (Rate) dt.28.06.2017 & Notification No.35/ST-2 dt.30.06.2017, chargeable to CGST @2.5% and SGST @ 2.5%.

ADVANCE RULING UNDER SECTION 98 OF THE CGST/HGST ACT, 2017

13. Pollution control device being supplied by the applicant for use in "waste to energy plants/devices" are classifiable under chapter heading 8421 of the first schedule to the Customs Tariff Act, 1975 and are covered by Sr. No. 234 of schedule I of Notification No.01/2017-Central Tax (Rate) dt.28.06.2017 & Notification No.35/ST-2 dt.30.06.2017, chargeable to CGST @2.5% and SGST @ 2.5%.

Ordered accordingly.
To be communicated.

11.09.2018
Panchkula.


(Sangeeta Karmakar)
Member CGST


(Vijay Kumar Singh)
Member SGST

Regd. AD/Speed Post

M/s Boldrocchi India Pvt. Ltd.,
18th-19th Floor Tower 4, Office No. 1801-1802-1907,
DLF Corporate Green, Sector-74-A, Gurugram (South).

Copy to

1. Commissioner, CGST & CE, SCO No. 407-08, Sector – 8, Panchkula.
2. Deputy Excise & Taxation Commissioner (ST), Gurugram (South).
3. The Principal Commissioner of Central Goods and Services Tax Division, GST Bhawan, Plot No. 36-37, Sector-32, Gurugram.