

**THE MAHARASHTRA APPELLATE AUTHORITY FOR ADVANCE RULING FOR GOODS AND SERVICES TAX  
(Constituted under Section 99 of the Maharashtra Goods and Services Tax Act, 2017)**

**ORDER NO. MAH/AAAR/SS-RJ/27/2018-19**

**Date-28.03.2019**

**BEFORE THE BENCH OF**

**(1) Smt. Sungita Sharma, MEMBER**

**(2) Shri Rajiv Jalota, MEMBER**

GSTIN Number	27AABCB5714G1ZX
Legal Name of Applicant	M/s. Bhutoria Refrigeration Private Limited
RegisteredAddress/Address provided while obtaining user id	340/2722, Opp. Bangur Nagar, Motilal Nagar No.2, Link Road, Goregaon (W), Mumbai-400104.
Details of appeal	Appeal No. MAH/AAAR/27/2018-19 against Advance Ruling No. GST-ARA-64/2018-19/B-25 dated 3 <sup>rd</sup> October, 2018
Concerned officer	MUM-VAT-E-501, Nodal Division – 10, Mumbai

**PROCEEDINGS**

**(Under Section 101 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 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 such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the MGST Act.

The present appeal has been filed under Section 100 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 Bhutoria Refrigeration Private Limited, (hereinafter referred to as the "Appellant") who has preferred appeal against the Advance Ruling No.GST-ARA-64/2018-19/B-25 dated 3<sup>rd</sup> October, 2018.



### **BRIEF FACTS OF THE CASE**

- A. The appellant is registered under GST in order to carry on a business of supply of products such as Fan Coil Units, Valves, Actuator, thermostat etc. along with its standard spare parts and accessories to its various customers across India.
- B. The appellant had filed an application before the Maharashtra Authority for Advance Ruling, (AAR) on the following question:-  
“Whether the Fan Coil Unit is covered under HSN Code 8418 under Goods and Service Tax Act, 2017”.
- C. The AAR vide its order dated 3<sup>rd</sup> October, 2018, decided the issue, thereby, holding that the impugned item i.e. ‘Fan Coil Unit’ would be covered under the HSN Code 8415 instead 8418 as claimed by the appellant.

Being aggrieved by the above ruling, the present appeal is filed.

### **Grounds of Appeal**

1. It is the case of the appellant that the AAR has ignored the submission and argument made by the appellant while adjudicating the issue. Therefore, the present appeal is preferred on the following grounds:-
- i) That the learned Authority has erred in understanding Note 2(b) of section Notes of Section XVI which deals with classification of parts which are used with a particular kind of machine, are to be classified under the Tariff Heading of that machine with which they are used.  
Therefore, it is submitted that the parts if used with a particular kind of machine shall be classified with the machine of that kind only and not to be classified under the Tariff Heading in the machines they are used.
- ii) That the learned Authority has erred in ignoring Note 2(a) of Section Notes of Section XVI which deals with classification of parts and applicable in the facts of instant case.



It is contended that fan coil units, standalone, can be classified in appropriate sub-heading of CTH-8414 which specifically covers fans and cannot be classified in CTH 8415.

- iii) That the learned Authority has erred in ignoring the judgment of Hon'ble Supreme Court in matter of Carrier Aircon Limited, specifically when both 'chillers' and 'fan coil units' are inter-dependent and supplementing each other in an-conditioning machine. Therefore, the judgment of Supreme Court, which has held that chiller is classifiable under CTH 8418 is squarely applicable to fan coil units also.
- iv) That the learned Authority has erred in understanding the technical description and working of the Fan Coil Unit wherein it has been clarified that Fan Coil Unit is used to freeze the water, supplied through pumps, to cool the area where the machine is installed. It is submitted that Fan Coil Unit is connected to chiller through valves & pumps. Chiller supplies water to FCU and FCU use this chilled water to cool the area where it is installed. Therefore, the basic function of a Fan Coil Unit is to freeze or cool the area.
- v) That the learned Authority has erred in concluding that FCU fulfills all the requirements for classification under CTH 8415, whereas FCUs do not have any functionality or capability to act as Air Conditioning machines. The appellant referred to CBEC Circular dated 25.09.2002, in order to demonstrate that FCU do not contain any compressor and capillary line as comprised in air-conditioning machines. Therefore, the FCU cannot be termed as air-conditioning machines.

#### PERSONAL HEARING

The case was kept for hearing on 07.03.2019 when Shri Mahesh Bhattar, C.A. and Ms. Nikita Mehta, C.A. , appearing for the appellant, reiterated the written submissions filed during the time of appeal. Shri Hemant Deokate, Deputy Commissioner of State Tax, appearing on behalf of the respondent, reiterated the submissions which were earlier made before the Advance Ruling Authority.



## DISCUSSION AND FINDINGS

2. We have gone through the facts of the case. We have also gone through the order of the AAR against which the appeal is filed. The question in the present appeal is as under:-

“Whether the Fan Coil Unit is covered under HSN Code 8418 under Goods and Service Tax Act, 2017”.

3. It is seen from the record that Fan Coil Unit (hereinafter referred to as ‘FCU’) consists of 3 basic components namely fan motor, heat exchanger coils and PCB which is connected with a valve to control the flow of water as per the set temperature. FCU consists of

(a) **Fan Motor and Fan Blower:** Fan Motor is used for rotating impeller of the Fan Blower at certain RPM to provide desired air volume for specific capacity of unit.

(b) **Heat Exchanger:** Heat Exchangers are a group of copper coils arranged in rows with aluminum fins, where copper tubes carry chilled water which absorbs heat from air passed over it by the fan motor.

(c) **PCB:** PCB is the printed circuit board which controls the fan speed and water flow depending upon logic as per set mode, set temperature, room temperature etc.

(d) **Main Drain Pan:** The Main Drain Pan is used for collecting condensed water generated at the heat exchanger during process of cooling.

(e) **Filters:** Filters are at the rear end of the fan coil units through which air is sucked in by fan blowers.

(f) **Main Casing:** Main Casing is the body containing and protecting all the above components in one box.

It is also seen from the record that the appellant is engaged in supply of fan coil units which are used in the Heating, Ventilation and Air Conditioning (HVAC) System. As per the submission made by the appellant HVAC consists of chillers, pumps and terminals. Fan Coil Unit is one of various type of terminals. The various types of fan coil units are listed as Ceiling Concealed FCU, 4-Way Cassette FCU, Wall Mounted FCU, High Static FCU, Floor Standing FCU, Tower Floor Standing FCU.



The appellant has claimed in their contention that the product fan coil unit is covered by HSN Code 8418 which is classified in Schedule-III, Entry No.319(A) through Notification No.1/2017 CT(Rate). The heading is reproduced as below:-

HSN 8418

*Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415*

The AAR has held that the FCU is a device consisting of a heating and/or cooling heat exchanger or coil and fan. It is a part of HVAC system found in residential and industrial buildings. Due to their simplicity and flexibility, FCUs are more economical to install than ducted 100% Fresh Air System or Central Heating System with air handling units or chilled beams. After going through the wordings of heading 8418 of the GST Tariff, the AAR came to the conclusion that FCUs are not Refrigerators, Freezers and other refrigerating or freezing equipment and neither are they heat pumps. Therefore, it was concluded that they would not fall under GST Tariff Heading 8418 but would be covered by Tariff Heading 8415 of the CGST Act.

4. From a basic reading of the submission made by the appellant it is very clear that FCU is a part of the Air Conditioning System. It does not have anything in common with the refrigerating unit. The HSN Code 8418 covers refrigerators, freezers and heat pumps. The essential elements of refrigerator are listed as compressor, condenser and evaporators whereas it is seen from the description of the FCU that it is commonly a part of the Air Conditioning System and Heading 8418 does not include 'Air Conditioning Systems'. Therefore, we are unable to agree with the contention of the appellant that the FCU will be covered under Heading 8418. In fact, we agree with the ruling of the AAR that the product would be covered by HSN Code 8415. Heading 8415 is reproduced below:-

*8415 ---- Air Conditioning machines, comprising a motor driven fan and elements for changing the temperature and humidity, including these machines in which the humidity cannot be separately regulated.*

The explanatory note under heading 8415 as under the HSN is reproduced as under:-



..''In these machines the elements for humidifying or drying the air may be separate from those for heating or cooling it. However, certain types incorporate only a single unit which changes both the temperature and, by condensation, the humidity of the air. These air conditioning machines cool and dry (by condensation of water vapour on a cold coil) the air of the room in which they are installed or, if they have an outside air intake (damper), a mixture of fresh air and room air. They are generally provided with drip pans to catch the condensate.

The machines may be in the form of single units encompassing all the required elements, such as self-contained window or wall types (referred to as "through-the-wall" units). Alternatively, they may be in the form of "split-systems" which operate when connected together, i.e., a condenser unit for external installation plus an evaporator unit for internal installation. These "split-systems" are ductless and utilize a separate evaporator for each area to be air conditioned (e.g. each room).

As per the explanatory notes given in the HSN, the heading 8415 applies to machine (1) equipped with a motor driven fan or blowers and 2) designed to change both the temperature and the humidity and (3) for which the elements machine in (1) & (2) are presented together.

As per the explanatory note, this sub heading also includes both indoor and outdoor units for split system or conditioning machines when presented separately. The explanatory notes also state that in accordance with the provision of Note-2 (b) of Section XVI this heading includes separately presented indoor units and outdoor units in split system or conditioning machine of this heading. In view thereof, the FCU would be covered by HSN Code 8415. The impugned product is a unit which is a part of the Air Conditioning system and is therefore covered by the heading 8415.

5. We also came across rulings given in other countries regarding the classification of the FCU. As per ruling given by the United States International Trade Commission Rulings and Harmonized Tariff Schedule dt.22<sup>nd</sup> September, 1994, FCUs were held to be covered by



heading 8415. In a ruling given by the Tariff Commission of Republic of the Philippines, the FCUs were held to be covered by heading 8415.

6. It is contended by the appellant that the Supreme Court judgement in the case of Carrier Aircon is applicable to the instant case (Civil appeal No 3914 of 2001 dt 5.7.2006) in which it was held that 'Chillers' are covered by heading 8418 as they are 'refrigerating equipment'. It was held by the Supreme Court that the basic function of the 'Chillers' is to chill water or liquid and that the main function of the air conditioning system is to control temperature which is not done by the chiller and therefore 'Chillers' cannot be classified as an 'Air Conditioning System'. We have gone through the judgment and we find the followings:-

- The Supreme Court held that a 'chiller' is not an air conditioning system because its function is to chill water and not to control temperature. **However, it is seen that the very function of the fan coil unit is to control the temperature in the space where it is installed, or serve multiple spaces.** A fan coil is controlled either by a manual on/off switch or by a thermostat, which controls the throughput of water to the heat exchanger using a control valve and/or the fan speed. Thus, the Supreme Court judgment reinforces our say that the Fan Coil Unit cannot be called as a refrigerating unit.
- The function of the Chiller and the Fan coil unit are different- whereas the former chills water and liquids, its core function is refrigerating and the latter controls temperature and is therefore is a core part of the air conditioning system.
- A **fan coil unit (FCU) is a device that uses a coil and a fan to heat or cool a room without connecting to ductwork.** Its only function is to heat or cool a room and to control temperature. The chillers basic function is to chill water and therefore it is used in various industrial applications like food industry, cool manufacturing equipment, textile industry etc. The Supreme Court by considering the basic function of the chiller classified it as a 'refrigerating equipment'. By the application of the same principle, **it can be said that the basic function of the Fan coil unit is to control temperature which is the main function of the Air Conditioning Unit.**



7. It is contended by the appellant that the FCU would be covered by CTH 8418 as they are used along with the chillers and chillers are classified under heading 8418. They have referred to the explanatory note 2(b) of section XVI. As per 2(b) if parts are used with a particular kind of machine then it shall be classified with a machine of that kind only. We disagree with the contention of the appellant as it is clear from the description of the product that FCUs are used in the air conditioning unit and not in refrigerating unit and therefore they cannot be covered under heading 8418. The other contention of the appellant is that stand alone FCUs should be classified under CTH 8414 which specifically covers fans. .

8. Heading 8414 is reproduced as below:-

*8414 –Air or vacuum pumps, air or other gas compressor and fans; ventilating or recycling goods incorporating a fan whether or not fitted with filter.*

The fans covered by this heading are described as below in the HSN:-

*..”These machines, which may or may not be fitted with integral motors, are designed either for delivering large volumes of air or other gases at relatively low pressure or merely for creating a movement of the surrounding air.*

*Those of the first kind may act as air extractors or as blowers (e.g., industrial blowers used in wind tunnels). They consist of a propeller or blade-type impeller revolving in a casing or conduit, and function on the principle of rotary or centrifugal compressors.*

*The second type are of more simple construction, and consist merely of a driven fan rotating in free air.*

*Fans are used, inter alia, for ventilating mines and premises of all kinds, silos, ships, for extracting by suction dust, steam, smoke, hot gases, etc.; for drying many materials (leather, paper, textiles, paint, etc.); in mechanical draught apparatus for furnaces.*

*This group also includes room fans, whether or not with a tilting or oscillating device. These include ceiling fans, table fans, wall bracket fans, ring mounted fans for building into walls, window panes etc.*





9. It is easily seen from the description that the Fan described under 8414 do not at all have any resemblance with a FCU. Therefore, there is no reason to believe that FCU will be covered by heading 8414.

In view of the extensive deliberation as held above, we pass the following order:-

**ORDER**

For the reasons recorded above, the instant appeal is dismissed on merit. The Ruling given by the AAR is upheld and warrants no interference.

  
(Rajiv Jalota)

Member



  
(Sungita Sharma)

Member

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2. The AAR, Maharashtra  
3. The Pr. Chief Commissioner, CGST and C.Ex., Mumbai  
4. The Commissioner of State Tax, Maharashtra  
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6. The Web Manager, [WWW.GSTCOUNCIL.GOV.IN](http://WWW.GSTCOUNCIL.GOV.IN)  
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