

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/16/2018-19

Date- 04.02.2019

BEFORE THE BENCH OF

(1) Smt. Sungita Sharma, MEMBER

(2) Shri Rajiv Jalota, MEMBER

GSTIN Number	27AAGST0679M1ZR
Legal Name of Appellant	Taraltec Solutions Private Limited
Registered Address/Address provided while obtaining user id	176, UdyogBhavan, Sonawala Road, Goregaon East, Mumbai- 400 063
Details of appeal	Appeal No. MAH/GST-AAAR-19/2018-19 dated 09.11.2018 against Advance Ruling NoGST-ARA-47/2017-18/B-54 dated 22.06.2018
Concerned officer	Asstt. Commissioner, CGST, Div -VII, Mumbai East

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. Taraltec Solutions Private Limited (herein after referred to as the "Appellant") against the Advance Ruling No. GST-ARA-47/2017-18/B-54 dated 22.06.2018.



BRIEF FACTS OF THE CASE

- A. The Appellant are manufacturers of Reactor, which is a part of Hand Pump, used in villages to extract water below the earth surface.
- B. The reactor manufactured by the appellant ensures disinfection of water so extracted in order to provide clean and hygienic water to villagers.
- C. The Reactor harnesses fluid dynamics and kills microbes in water bore well hand pump and in the motorized water lines. It eliminates water borne diseases such as Diarrhea, Cholera, Typhoid etc.
- D. Presently the jurisdictional CGST Commissionerate officers are classifying the product i.e. Reactor in the sub-heading No. 8421 21 90 leviable to GST at the rate 18% (CGST 9% + SGST 9 %).
- E. Since the Reactor can only be used in the Bore well hand pumps, it merits classification in HSN Heading No. 8413, sub-heading no. 8413 91- as "Hand Pumps and parts thereof".
- F. The Appellant had filed an application before the Advance Ruling Authority, seeking the clarification regarding classification of the 'Reactor'. However, the Advance Ruling Authority rejected the application filed by M/s. Taraltec Solutions Private Limited wherein they had advocated to classify this Reactor manufactured by them under the HSN 8413 91 instead of the HSN 8421 21 90 which is subject to 18% GST i.e.(CGST 9% + SGST 9 %).
- I. Aggrieved by this Order, the Appellant have filed the present appeal. on the grounds expatiated here-in-under:-

GROUND OF APPEAL

1. The Appellant's contentions remain the same as were made before the Advance Ruling Authority.



2. In paragraph 3 of the Advance Ruling under “contention of the concerned officer”, it is mentioned that –
“it is found that applicant has not submitted any material/documents like the product catalogue, brochure, diagram or any other relevant material to ascertain the nature and function of products.”
3. The above is not factually correct. Actually, in response to the request made by the concerned officer, we had submitted required documents on 2nd May, 2018.
4. In paragraph “Additional written submission dated 27.03.2018 by the Department, it is stated that in sub-para 4 that “the applicant has further stated that other application of the reactor in pipe line are:
 - (i) to be fitted for wells, ponds, lakes etc. to motorized pipelines;
 - (ii) to be fitted in building with overhead tank;
 - (iii) swimming pool/fountain;
 - (iv) sewage water treatment in township, hotels, hospitals etc.
5. The Appellant submitted that the above statement was not given by them to the concerned departmental officer and even during their hearing before AAR. Thus, the AAR order has been passed with certain inaccuracies. They also claimed that they have not been provided a reasonable opportunity to be heard before passing the impugned ruling. This is denial of natural justice to them.
6. They submitted that they had time and again stated, and hereby reiterate that their product is meant for poor masses of rural India located in villages. It has utility only for hand pumps for water dispensing. They further submitted that their product in question is of no use without being fitted in hand pump to purify water that is consumed by the village folks. Also they submitted that their product has acclaimed honour from various state govts. and also from the Prime Minister’s Office in India for being innovative product to be used by the general masses.
7. Hence they prayed before this authority to set aside the impugned Advance Ruling No. GST-ARA-47/2017-18/B-54 dated 22.06.2018 and classify the product in question under the sub-heading 8413 91.

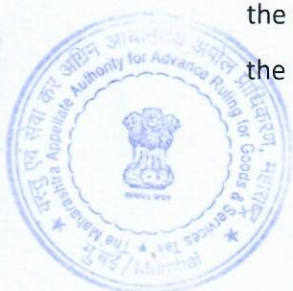


Personal Hearing

8. A personal hearing in the matter was conducted on 16.01.2019, where Shri Anjan Mukherjee, appearing on behalf of the Appellant, reiterated their written submissions which were earlier made before the Advance Ruling Authority. The departmental officer, represented by the Asstt. Commissioner, CGST, Div. VII, Mumbai East, opposed the arguments of the Appellant.

Discussions and Findings

9. We have gone through the submissions made by the appellant and the respondent along with the ruling pronounced by the Advance Ruling Authority. On perusal of the appeal and submissions made by the appellant as well as the respondents in the instant case, the question before us to decide is, whether the Reactor manufactured by the Appellant (herein after referred to us "the impugned product") can be considered as parts of the hand pumps or otherwise.
10. First of all, we would like to discuss the nature, design and functions of the impugned product. As per the Appellant, the impugned product is retrofitted to the hand pumps for the purpose of purifying and disinfecting the water by killing the microbes in the water from the bore well hand pump and motorized water-lines, thus eliminating the water borne diseases. Thus, it can be clearly seen that the impugned product is not fitted with the hand pumps at the time of manufacturing of the hand pumps, rather it is retrofitted with the hand pumps with the purpose different from the hand pumps whose main function is to draw the underground water from the bore well whereas the primary function of the impugned product is to purify the water. Thus, the impugned product is not an essential part of the hand pumps because hand pump can function even without the impugned product. Rather it can be construed as accessory fitted to the hand pumps having the characteristics of the water purifier which adds to the value of the product- in this case, water- obtained from the main equipment/machines- in the instant case, the Hand Pump. Thus, the impugned product is in no way associated with the extraction of the underground water from the bore well, which is the main function of the Hand Pump.



11. The Appellant themselves have submitted that the impugned product can also be retro fitted with the motorized water lines for the purpose of purifying water and eliminating the microbes present in the water, thus their claim that the impugned product is designed only to be fitted with the hand pump is controvertible and self -contradicting and thus, not tenable as the hand pump system is completely different from the motorized water line arrangement/system in terms of functioning, nature and design.
12. While the Appellant's submission, that their product is meant for poor masses of rural India located in villages and that their product has acclaimed honour from various state governments and also from the Prime Minister's Office in India for being an innovative product, is in itself commendable, yet under the GST law the classification of any commodity is not governed by such factors, but by the nature, design, character, and function of the article. The argument of the appellant therefore does not have any bearing on the case.
13. In view of the above discussion and deliberation, it is evident that the impugned product manufactured by the Appellant does not merit classification under the sub-heading 8413 91- as "Hand Pumps and parts thereof" as contended by the Appellant. We hold that the same is classifiable, in line with the contention made by the Jurisdictional Officer, under the heading 8421 21 90 having description as 'filtering or purifying machinery and apparatus for liquids'. Accordingly, we pass the order as under.

ORDER

We do not see any reason to interfere with the Ruling given by AAR, Maharashtra. Thus, the appeal filed by the Appellant is dismissed in terms of the above ruling.


(RAJIV JALOTA)
MEMBER




(SUNGITA SHARMA)
MEMBER