

**AUTHORITY FOR ADVANCE RULING, TAMILNADU  
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,  
5<sup>TH</sup> FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,  
CHENNAI – 600 003.  
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE  
GOODS AND SERVICES TAX ACT, 2017.**

**Members present are:**

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34

2. Tmt K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

**ORDER No. 46/AAR/2021 DATED: 30.12.2021**

GSTIN Number, if any / User id		33AACCG6145R1Z8
Legal Name of Applicant		GEORGE MAIJO INDUSTRIES PRIVATE LIMITED
Registered Address/Address provided while obtaining user id	2B, Apex Plaza, 3 <sup>rd</sup> floor, 5, Nungambakkam High Road, Chennai-34	
Details of Application		GST ARA- 01 Application Sl.No.21/2021/ARA dt.01.07.2021
Concerned Officer		Centre: Chennai North Commissionerate. State: Nungambakkam Assessment circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Importing and selling
B	Description (in Brief)	The applicant is engaged in importing out board motors from Japan, providing repairs and maintenance service for out board motors, selling spare parts of marine engines, importing fishing hooks, agricultural equipment and motor cycle transmission chain sprocket and selling the same all over markets in India.

Issue/s on which advance ruling required	Applicability of notification issued under the provisions of the act.
Question(s) on which advance ruling is required	<ol style="list-style-type: none"> <li>1. Applicability of GST rate 5% on marine engines pertaining to HS code 8407 and its spare parts without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of fishing vessel of HS code 8902.</li> <li>2. Applicability of GST rate 5% on marine engines pertaining to HS code 8407 and its spare parts without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of boats of HS code 8906 being supplied to defence department and other agencies used for patrolling/flood relief and rescue purposes.</li> </ol>

**Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.**

**At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.**

GEORGE MAIJO INDUSTRIES PRIVATE LIMITED, 2B, Apex Plaza, 3<sup>rd</sup> floor, 5, Nungambakkam High Road, Chennai-34 (hereinafter called the Applicant) are registered under GST with GSTIN 33AACCG6145R1Z8. The applicant has sought Advance Ruling on the following questions:

1. Applicability of GST rate 5% on marine engines pertaining to HS code 8407 and its spare parts without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of fishing vessel of HS code 8902.
2. Applicability of GST rate 5% on marine engines pertaining to HS code 8407 and its spare parts without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of boats of HS code 8906 being supplied to defence department and other agencies used for patrolling/flood relief and rescue purposes.

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they are importing outboard motors from Japan and selling the outboard motors to Fishermen, Boat builders, Defence Department and other agencies to fit in boats used for fishing purpose, patrolling, flood relief and rescue operations. They are also providing repairs and maintenance service for outboard motors, selling spare parts of marine engines, importing fishing hooks, agricultural equipment and motor cycle transmission chain sprocket and selling the same all over markets in India.

2.2 The applicant has stated that the outboard motors are designed to operate only in marine and fresh water and it can be operated only by fitting in boat. The cooling system of the outboard motor is designed to take water through the propellers and hence the engine cannot be operated out of water. (Water cooled engine not air cooled). They have stated that the outboard motor cannot be utilized unless otherwise fitted on the boat, even for doing service they need to put in to a water tank to attend to the repairs and maintenance.

2.3 On interpretation of law, the applicant has referred to clarification provided vide para 10.1 of Circular No.52/26/2018-GST dated 09.08.2018, wherein it clarifies that the marine engine attracts 5% GST, being part of fishing vessels. The applicant has also relied upon the Advance Ruling issued by the Kerala Authority for Advance Ruling in the case of South Indian Federation of Fisherman Societies, wherein it has been ruled that rate of GST is 5% for outboard motors being a part of boats used for fishing and patrolling/flood relief and rescues purposes.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 05.10.2021. The Authorised Representative Shri.A.Mohanraj, Business Head of the Applicant appeared for the hearing and reiterated their submissions. He submitted that they are importing from Japan and they consider Motor as part of Marine Engine and hence, have applied for ruling under HSN 8407. They were asked to furnish the following documents both for receipt and supply:

- i. Bills of entries, invoices, purchase orders for the products imported
- ii. Tax invoices issued by the applicant

3.2 The applicant vide their letter dated 11.10.2021 (received on 25.10.2021) submitted the following documents:

- Purchase order no. CHPO/0003/2122 dated 23.04.2021 raised on M/s YAMAHA MOTOR CO.LTD
- Purchase order no. CHPO/0014/2122 dated 09.06.2021 raised on M/s YAMAHA MOTOR CO.LTD
- Invoice No.M07241Y2 dated 27.05.2021 of M/s YAMAHA MOTOR CO.LTD
- Invoice No.M17733Y2 dated 07.08.2021 of M/s YAMAHA MOTOR CO.LTD
- Bills of entry for the above said invoices.
- Tax invoice No.PONOBG/00182/2122 dated 30.04.2021 for supplying E9.9 DMHL 2 Stroke Yamaha Petrol OBM E9.9 DMHL (HSN 84012100) to Shri.P.V. Sebastain Ponnaiya
- Tax invoice no.NAOBG/0251/2122 dated 30.09.2021 for supplying E9.9 DMHL 2 Stroke Yamaha Petrol OBM E9.9 DMHL (HSN 89020090) to Shri.Franklin Rajesh

3.3 On perusal of the documents furnished by the applicant it was seen that there were no purchase orders for supplies made to P.V Sebastain Ponnaiya and Franklin Rajesh and registry called for the same from the applicant. The applicant vide their email dated 03.11.2021 informed that most of their sales happened through walk in customers and the above said persons are fishermen and the applicant has not received any purchase order from them. They furnished copies of purchase orders and invoices for Government supplies done by them.

4. The Centre Jurisdictional authority who has administrative control over the applicant has furnished comments on the Advance Ruling application and has stated that there are no pending proceedings on the issue raised by the applicant. The center jurisdictional authority has stated that these Out Board motors/ Marine engines are also used for vessels for pleasure or sport falling under Chapter Heading 8903 in which case the goods are not eligible for benefit of the above mentioned Notification and they are chargeable at the rate of 28% GST. It has also been stated that some of the engines imported are used for this purpose also and while extending the benefit of the notification cited supra, necessary safeguards shall be taken.

5. The State Jurisdictional authority has stated that there are no pending proceedings in the applicant's case.

6. We have carefully examined the submissions of the applicant in their application and during the Hearing. The applicant is engaged in importing outboard motors from Japan and selling them to Fishermen, Boat builders, Defence Department and other agencies to fit in boats used for fishing purpose, patrolling, flood relief and rescue operations. They are also providing repairs and maintenance service for outboard motors, selling spare parts of marine engines, importing fishing hooks, agricultural equipment and motor cycle transmission chain sprocket and selling the same all over markets in India. The applicant has sought Advance Ruling on the following questions:

1. Applicability of GST rate 5% on marine engines pertaining to HS code 8407 and its spare parts without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of fishing vessel of HS code 8902.
2. Applicability of GST rate 5% on marine engines pertaining to HS code 8407 and its spare parts without considering its general tax rate as per the

entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of boats of HS code 8906 being supplied to defence department and other agencies used for patrolling/flood relief and rescue purposes.

The question on which ruling is sought is about the applicability of GST rate as per the entry of schedule I, Sl.no.252 of Notification No.01/2017 dt. 28.06.2017. Hence the application is found admissible under Section 97 (2)(b) of the CGST Act, 2017.

7.1 Applicant has submitted that they sell the outboard motors imported from Japan to fishermen and has sought if the general tax rate of 5% for marine engines as specified in the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, this engine forming a part of fishing vessel of HS code 8902 is applicable to the goods so cleared. In respect of the boats sold to defence department and other agencies wherein such boats are used for patrolling/ flood relief and rescue purposes, they have sought ruling if the general tax rate of 5% is applicable as these engines form part of boats of HS code 8906 as provided therein. They have also stated that Para 10.1 of Circular no.52/26/2018-GST dt.09.08.2018 clarifies that the marine engine attracts 5% GST being part of fishing vessels. It is observed that the Applicant has come for ruling on Marine engines and its spare parts as found from their submissions. Thus the ruling has been sought for two scenarios, one being supply of outboard motors used in fishing vessels and the other being used in boats supplied for patrolling/rescue operation of the defence department.

7.2 The clarification sought is whether the rate prescribed under Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017 as amended is applicable to the Applicant. The said entry is as below:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
252	Any chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907

The said entry is applicable to goods falling under any chapter, provided the same is 'Parts' of goods of heading

- 8901- Cruise Ships, Excursion Boats , Ferry-Boats, Cargo Ships, Barges And Similar Vessels For The Transport Of Persons Or Goods;

- 8902 - Fishing Vessels; Factory Ships And Other Vessels For Processing Or Preserving Fishery Products;
- 8904- Tugs And Pusher Craft;
- 8905- Light-Vessels, Fire-Floats, Dredgers, Floating Cranes, And Other Vessels The Navigability Of Which Is Subsidiary To Their Main Function; Floating Docks; Floating Or Submersible Drilling Or Production Platforms;
- 8906- Other Vessels, Including Warships And Lifeboats Other Than Rowing Boats;
- 8907- Other Floating Structures (For Example, Rafts, Tanks, Cofferdams, Landing-Stages, Buoys and Beacons).

From the above tariff headings, it is clear that the rate is applicable based on the end use of these engines i.e., if they become part of fishing vessels or other vessels including warships and life boats other than rowing boats. Thus the rate of tax at 5% is based on the end use these engines are put to and is available only for engines defined

7.3 Applicant has relied on Para 10.1 of Circular no.52/26/2018-GST dt.09.08.2018 is reproduced as under:

*"10.1 Applicability of GST on marine engine: Reference has been received seeking clarification regarding GST rates on Marine Engine. The fishing vessels are classifiable under heading 8902, and attract GST @ 5%, as per S. No. 247 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017. Further, parts of goods of heading 8902, falling under any chapter also attracts GST rate of 5%, vide S. No. 252 of Schedule I of the said notification. The Marine engine for fishing vessel falling under Tariff item 8408 1093 of the Customs Tariff Act, 1975 would attract a GST rate of 5% by virtue of S. No. 252 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017.*

*10.2 Therefore, it is clarified that the supplies of marine engine for fishing vessel (being a part of the fishing vessel), falling under tariff item 8408 10 93 attracts 5% GST."*

It is found that the circular further clarifies that the marine engines falling under tariff item 8408 would attract 5% GST only when it is supplied for fishing vessels. Thus it is seen that the rate would be applicable based on end use only. The centre jurisdictional authority has observed that the Out Board motors/ Marine engines cleared by the applicant are used in vessels for pleasure, sport falling under

Chapter Heading 8903 in which case the goods are not eligible for the benefit of the abovementioned notification and are chargeable at 28% GST. Hence it becomes imperative that the end use of such engines should be established to avail the reduced rate of GST. Applicant has submitted that the outboard motors they supply are fitted in fishing vessels and patrolling vessels. However they have also submitted that they supply to Boat builders, Defence departments and other agencies apart from fishermen. Thus the outboard motors are supplied to various users among which fishermen and defence department are also included. However the rate of 5% being based on end use, the fact of such end use should be established to avail the same.

7.4 Applicant had not filed any documentary evidences along with the application to substantiate that the engines they supply are being used in fishing vessels or for boats used by defence departments. During the Personal Hearing held on 05.10.2021, they were called upon to submit Bills of entries, invoices, purchase orders for the products imported and Tax invoices issued by the applicant. Further to that they submitted bills of entries, invoices for purchase and not for sale made by them. When contacted for clarification on these documents, they submitted that the buyers are individual fishermen and mostly they are walk in customers. Hence no purchase orders from fishermen for engines sold for fishing vessels were available with them. The applicant has not furnished any purchase orders for supply of engines at present or for proposed supplies. It is observed that the supplies made for fishing vessels have not been supported with documentary evidences. In this scenario, this authority is constrained to pass any ruling on the question raised about eligibility to avail rate of 5% as prescribed at Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017.

8.1 Now we take up the second question for consideration i.e., Applicability of GST rate 5% on marine engines pertaining to HS code 8407 and its spare parts without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of boats of HS code 8906 being supplied to defence department and other agencies used for patrolling/flood relief and rescue purposes. Applicant produced documents for engines being supplied to departments as detailed below:-

(i) For supply of 11 nos of F115 BETL 4 stroke Yamaha Petrol OBM F115BETL falling under HSN 8407 21 00, done to Additional Director Gen. ESP/ESP-4, Engineer-in-Chief's branch, Integrated HQ of MoD (ARMY) Kashmir House, Rajaji Marg vide Supply order No. A/01634/OBM-115HP/ESP-4 dt. 15.01.2019, copy of invoice No. PONOBG/0274/2021 dt. 31.03.2021 has been submitted. These goods have been cleared at the rate of 28% IGST under the HSN code 8407 21 00.

(ii) For supply done to The Controller Procurement, Material organization (Kochi), Naval Base, Cochin, Ernakulum vide purchase order 18KBYC002 dt. 24.8.2021, copies of invoice no. COOBG/00473/2122 dt. 25.10.2021 and COOBG/00369/2122 dt. 30.09.21 has been submitted, wherein the duty has been paid at the rate of 5% under the HSN Code 8902 00 90.

8.2 On perusal of these documents, it is seen that the applicant has effected sale of engines to defense department and Naval base at Cochin. The vessels used by the defence and other agencies for patrol, relief and rescue operations fall under Customs Tariff Heading 8906- Other vessels including warships and lifeboats other than rowing boats. As per entry at Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017, parts of goods of headings 8901,8902,8904,8906,8907 falling under any chapter of the customs Tariff attracts GST @5%. Therefore if the marine engines supplied for use as part of vessel falling under tariff heading 8906, which are used by the department of defence and Naval base for patrol, relief and rescue operations, then such engines as part of such vessels will only attract GST at the rate of 5% as per the above entry.

8.3 The applicant has come up for ruling on marine engines and its spare parts used for vessels put to patrolling, relief and rescue operations. However it is seen that they have submitted documents for supply of marine engines only and not for spare parts. Further as per entry at Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017, only parts of goods of headings 8901,8902,8904,8906,8907 falling under any chapter of the customs Tariff attracts GST @5%. The marine engines form part of the goods of headings specified in the entry and spare parts are part of marine engines and not part of goods of headings specified above. Further no documents related to supply of spare parts have been produced by the applicant. Hence this authority finds that the reduced rate of GST is not available for spare parts of the marine engines.


9. Applicant has relied on the ruling issued by the Kerala authority for advance ruling in the case of M/s. South Indian Federation of Fishermen Societies. It is pertinent to note here that the advance ruling is applicable to the applicant and their jurisdictional authority only and ruling cannot be extended based on the facts of any other case.

10. To sum up, the applicant has not established sale of Outboard motors/marine engines to fishing vessels with substantiating documents. Hence no ruling could be offered in this respect. With respect to the Outboard motors/marine engines being supplied to defence department and Naval Base, applicant has submitted invoices and purchase orders to establish the supply and hence it is found that such marine engines supplied being part of Other vessels including warships and lifeboats other than rowing boats falling under Customs Tariff Heading 8906-are chargeable to 5% GST as per entry at Sl.no. 252 of Annexure-I of Notification No. 01/2017-C.T (Rate) dated 28.06.2017. However spare parts are not found to be eligible to avail for this reduced rate specified in the entry.

#### **RULING**

1. Applicability of GST Rate 5% on marine engines pertaining to HS code 8407 forming part of fishing vessels is not answered for lack of substantiating documents.

2. Applicability of GST rate 5% on marine engines pertaining to HS code without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28.06.2017, being this engine forms a part of boats of HS code 8906 being supplied to defence department and Naval base, Cochin is available to the applicant when such engines are fit in vessels used for patrolling/flood relief and rescue purposes. Applicability of GST rate at 5% under Sl.no.252 cited above is not available for spare parts of marine engines.

  
Smt. K.LATHA  
Member (SGST)

  
Shri.T.G.VENKATESH  
(Member CGST)



To  
GEORGE MAIJO INDUSTRIES PRIVATE LIMITED,  
2B, Apex Plaza, 3<sup>rd</sup> floor, 5, Nungambakkam High Road,  
Chennai-34

**// BY SPEED POST WITH ACK.DUE //**

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes/Member,  
IndFloor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & Central Excise, Chennai North Commissionerate,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034
4. The Asst. Commissioner (ST), Nungambakkam Assessment circle.  
88, Spurtank Road, Egmore Taluk Office Building, Chetpet, Chennai-600031.
5. Master File/ Spare - 2.

THE BOARD OF DIRECTORS OF THE COMPANY  
HAS APPROVED THE FOLLOWING RESOLUTIONS  
AND RECOMMENDATIONS:

1. That the Board of Directors of the Company be authorized to execute and deliver all such documents and instruments as may be required in connection with the above.
2. That the Board of Directors of the Company be authorized to execute and deliver all such documents and instruments as may be required in connection with the above.
3. That the Board of Directors of the Company be authorized to execute and deliver all such documents and instruments as may be required in connection with the above.
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