



**KERALA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX DEPARTMENT
TAX TOWER, THIRUVANANTHAPURAM**



BEFORE THE AUTHORITY OF: Dr S.L. Sreeparvathy, IRS &
: Shri Abraham Renn S. IRS

Legal Name of the applicant	M/s. GEORGE MAIJO INDUSTRIES PRIVATE LIMITED
GSTIN	32AACCG6145R1ZA
ARN	AD320721007448C
Address	XIV/2075, Vijay Vihar, St. Cecilian Club Road, Chullickal, Ernakulam, Kerala 682005.
Advance Ruling sought for	i) Regarding applicability of GST rate of 5% for outboard motors pertaining to HS code 8407 and its spare parts as per Entry in Schedule I, Sl.No.252 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017; that GST rate of 28% shown in Schedule IV Sl. No.114 is not applicable for sales made by the applicant. ii) Clarification issued vide Circular No.52/26/2018-GST (Point 10.1) is applicable in the instant case.
Date of Personal Hearing	08/12/2021
Authorized Representative	Stanly James, Chartered Accountant

ADVANCE RULING No.KER/137/2021 Dtd. 01.06.2022

1. M/s. George Maijo Industries Private Limited (**hereinafter called the applicant**) is registered in the State of Kerala. The applicant is having their principal place of business in Kerala at Chullickal in Ernakulam District. The applicant operates in the States of Tamil Nadu, Karnataka, Gujarat, Maharashtra and Orissa and is the authorized distributor for Yamaha Motor Company's marine products since 1979. The applicant imports and supplies Yamaha Out Board Motors and related parts to their various customers in India. Imports are channelized through their offices located in the State of Tamil Nadu. The applicant also provides repairs and maintenance service for



Out Board Motors and also sells spare parts of marine engines. In addition to this, the applicant also imports fishing hooks and agricultural equipment for sales in markets in India.

2. At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued thereunder.

3. The applicant had requested an advance ruling on the following:

3.1. Applicability of GST rate of 5% for outboard motors pertaining to HS Code 8407 and its spare parts as per Entry in Schedule I, Sl. No. 252 of GST Act, 2017 dated 28.06.2017. GST rate of 28% shown in Schedule IV Sl. No.114 is not applicable for sales made by the applicant.

3.2. Whether the clarification issued vide Circular No.52/26/2018-GST (Point 10.1) is applicable in the instant case.

4. Contentions of the applicant:

4.1. The applicant submits that Yamaha Out Board Motors and their accessories are sold mainly to Fishermen, Boat Builders, Defence Department and other agencies. The Out Board Motors (OBM) procured fall under the HSN Code 8407 21 00. An OBM is a propulsion system for boats consisting of a self-contained unit that includes a gearbox and propeller and is designed to be affixed to the outside of the transom. They are the most common motorized method of propelling small watercraft. The applicant sells these OBMs mainly to fishermen, dealers authorized service centres, boat builders, Government agencies and the Defence Department. The outboard motors are designed to operate only in marine and freshwater. They can be operated only by fitting the motor to a 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. These are water-cooled engines and not air-cooled. The OBM cannot be utilized unless otherwise fitted on the boat even for doing service the OBM is put into a water tank to attend to repairs and maintenance.

4.2. The applicant requested an advance ruling regarding the classification and the rate applicable for sales of OBMs to fishermen and other Government agencies and other purposes including sales done through dealers' authorized service centres and boat builders.

4.3. The applicant further states that Section 97(2) of the CGST/SGST Act, 2017 stipulates the questions on which an advance ruling may be sought. An advance ruling is sought on the issues relating to clauses of Section 97(2)(a) & (b) related to the classification of goods and services.

4.4. The applicant is an importer of Yamaha Outboard Motors. These motors are subsequently sold to fishermen, boat builders, defence departments and other agencies to fit in boats used for fishing purposes, patrolling, flood relief, and rescue purposes. The applicant also provides repairs and maintenance services for OBMs and sales of spare parts for marine engines. The OBMs procured by the applicant fall under the category 8407 21 00 i.e., spark-ignition reciprocating or rotary internal combustion piston engines – marine propulsion engines: outboard motors. This category has a GST rate of 28%. The OBM is fitted to boats and is part of the boat. Notification No.01/2017-CT(R) dated 28-06-2017 has the following classification bearing CGST rate of 2.5%:

Sl. No.	Chapter / Heading / Sub-heading / Tariff	Description of Goods
246	8901	Cruise ships, excursion boats, ferry-boats, cargo ships, barges and similar vessels for the transport of persons or goods
247	8902	Fishing vessels; factory ships and other vessels for processing or preserving fishery products



248	8904	Tugs and pusher craft
249	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.
250	8906	Other vessels, including warships and lifeboats other than rowing boats
251	8907	Other floating structures (for example, rafts, tanks, coffer-dams, landing-stages, buoys and beacons)
252	Any chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907

4.5. The Out Board Motors are parts of vessels falling under Tariff Item nos. 8901, 8902, 8904 and 8906, therefore, the GST rate for Out Board Motors supplied as given above falls under the rate of 5% and not at the rate of 28%. The Ministry of Finance (Tax Research Unit) has already issued a clarification vide Circular No.52/26/2018-GST dated 09.08.2018 that 'Reference has been received regarding GST rates on a marine engine. The fishing vessels are classifiable under heading 8902 and attract GST @ 5% as per Sl. No. 247 of Schedule I of Notification No.01/2017-CT(R) dated 28-06-2017. Further parts of goods of heading 8902, falling under any chapter also attract GST rate of 5% vide Sl. No. 252 of Schedule I of the said notification. Marine engine for fishing vessels falling under Tariff item 8408 10 93 of the Customs Tariff Act 1975 would attract a GST rate of 5% under Sl. No. 252 of Schedule I of the Notification No.01/2017-CT(R) dated 28-06-2017.

4.6. The applicant submits that from the circular referred above it is inferred that parts of goods falling under headings 8901, 8902, 8904, 8905, 8906 and 8907 falling under any chapter will attract 5% GST. Therefore, OBMs imported under Tariff 8407 21 00 forming part of marine vessels will attract GST at the rate of 5% and not 28%. The applicant makes supplies of OBM for fishing boats and other vessels owned by the Defence Department Management Agencies, Marine Police and other agencies to be used for patrolling/flood relief and rescue operations. The OBMs imported by the applicant can only be fitted on marine vessels. The applicant believes that



clarification provided vide Circular No.52/26/2018-GST dated 09-08-2018 wherein it has been confirmed that 'parts of goods of heading 8902 falling under any chapter also attracts GST rate of 5% vide Sl. No. 252 of Schedule I of the Notification No.01/2017-CT(R) dated 28-6-2017 is also applicable to parts of goods of heading 8901, 8902, 8904 and 8906.

4.7. It is further submitted that the applicant proposes to make sales of OBMs falling under Tariff Item No.8407 21 00 and spares parts for OBM at a GST rate of 5%;

- (i) to fishing industry based on identity card issued by the Fishermen Society of Fisheries Department;
- (ii) to dealers/authorized service centres appointed in the respective territory to take care of supplies based on the declaration by the customer regarding end-use;
- (iii) to the ferry boat industry based on the declaration by the customer regarding the end-use;
- (iv) to boatbuilders based on the declaration issued by them;
- (v) to Government departments based on the tender documents.

5. Remarks of the Jurisdictional Officer:

5.1. The application was forwarded to the jurisdictional officer for specific remarks as specified under subsection (1) of section 98 of the Act. The jurisdictional officer submitted that the applicant are dealers of Yamaha "Out Board Motors and its accessories". The clarification sought by the company is "whether outboard motors coming under the GST rate of 28% or 5%." HSN Code of Out Board Motors is 8407 21 00 and the GST rate is 28%. Since 'Out Board Motors' was specifically mentioned under the HSN Code 8407 21 00, the Out Board Motors come under the GST rate of 28%. It is also reported that to the best of the knowledge of that office, the matter is not pending in any proceedings under any of the provisions of the Act and not already decided in any of the proceedings under any of the provisions of the Act.



6. Personal hearing

6.1. The applicant was granted an opportunity for a personal hearing on 08.12.2021. Shri Stanley James, Chartered Accountant represented the applicant. The representative reiterated the contentions made in the application and requested to issue the ruling based on the submissions made in the application.

7. Discussion and Findings:

7.1. The issue was examined in detail. The application is admissible as per subsection (2) of Section 97 of the CGST Act. The question raised is regarding the rate of GST applicable to outboard motors of HS Code 8407 and its spare parts as per Entry in Schedule I, Sl. No.252 of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017, and regarding the applicability of clarification issued vide Circular No.52/26/2018-GST (Point 10.1) in respect of the issue.

7.2. We have gone through the contentions of the applicant and the specific remarks offered by the jurisdictional officer. To classify the products, the provisions of Notification No 01/2017 Central Tax (Rate) dated 28.06.2017 are to be verified. The Outboard motors imported by the applicant are classified under Customs Tariff Heading 8407 21 00 – Outboard motors – Marine Propulsion engines – Spark-ignition reciprocating or rotary internal combustion piston engines and attract GST at the rate of 28% as per entry at Sl. No. 114 of Schedule IV of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. Fishing vessels, factory ships, and other vessels for processing or preserving fishery products fall under Customs Tariff Heading 8902 and are liable to GST at the rate of 5% as per entry at Sl. No. 247 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. However, as per entry in Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907 falling under any chapter of the Customs Tariff attracts GST at the rate of 5 %. Therefore, if the Outboard motors are supplied for use as part of a fishing vessel falling under Customs Tariff Heading 8902,



then OBM as part of the fishing vessel will only attract GST at the rate of 5% as per the entry at Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. Further, we find that the question raised before us is already clarified by the CBIC by Circular No.52/26/2018 - GST dated 09.08.2018. The relevant paragraph 10 of the circular reads as follows;

"10.1 Applicability of GST on the marine engine: Reference has been received seeking clarification regarding GST rates on Marine engines. The fishing vessels are classifiable under heading 8902, and attract GST @ 5%, as per SL. 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 attract GST rate of 5%, vide SL. No. 252 of Schedule I of the said notification. The Marine engine for fishing vessel falling under Tariff item 8408 10 93 of the Customs Tariff Act, 1975 would attract a GST rate of 5% as per 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."

7.3. The jurisdictional officer has raised a contention that the item should be classified under the heading HSN Code Out Board Motors - 8407 21 00 and that the tax rate is 28%. This contention was examined in light of the provisions contained in Notification No. 01/2017 CT (Rate) dated 28.06.2017. As per entry in Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017, it is notified that parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907 that fall under any chapter of the Customs Tariff attract GST at the rate of 5%. Therefore, if the Outboard motors are supplied for use as part of a fishing vessel falling under Customs Tariff Heading 8902, then OBM as part of the fishing vessel will only attract GST at the rate of 5%. [2.5% CGST + 2.5% SGST] as per entry at Sl. No. 252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. If it is supplied for use other than as parts of goods of headings 8901, 8902, 8904, 8905, 8906 and 8907 as stated above, GST at the rate



applicable under the respective Customs Tariff Headings in which they are classified will apply.

Given the observations stated above, the following rulings are issued;

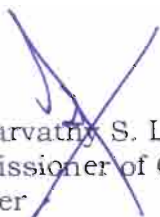

RULING

1. Whether the GST rate of 5% for outboard motors pertaining to HS code 8407 and its spare parts as per Entry in Sl. No. 252 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 is applicable to supplies made by the applicant; that the GST rate of 28% shown in Schedule IV Sl. No.114 is not applicable for sales made by the applicant.

Ruling: The Out Board Motors and its spare parts supplied for use in vessels falling under Customs Tariff Heading 8902 shall attract GST at the rate of 5% [2.5%-CGST + 2.5% SGST] as per entry at Sl. No. 252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. If it is supplied for use other than as parts of goods of headings 8901, 8902, 8904, 8905, 8906 and 8907 as stated above, GST at the rate applicable under the respective Customs Tariff Headings in which they are classified will apply.

2. Whether the clarification issued vide Circular No.52/26/2018-GST (Point 10.1) is applicable in the instant case.

Ruling: Yes.

 Sreeparvathy S. L. Joint Commissioner of Central Tax Member	 Abraham Renn S Additional Commissioner of State Tax Member
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To,

M/s. GEORGE MAJO INDUSTRIES PRIVATE LIMITED
XIV/2075, Vijay Vihar, St. Cecilian Club Road,
Chullickal, Ernakulam, Kerala 682005.



Copy to

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2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The State Tax Officer, Circle – I, Mattancherry, Ernakulam. [E-Mail ID ctotripunithural@yahoo.com]

