

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF: Dr S. L. Sreeparvathy, IRS &
: Shri Abraham Renn S. IRS

Legal Name of the applicant	M/s. Kerala State Co-operative Federation for Fisheries Development Limited (MATSYAFED)
GSTIN	32AAAAK1230H1ZD
ARN	AD320821000631S
Address	TC 43/373, Matsyafed, Kamaleswaram, Mancaud, Thiruvananthapuram - 695009.
Advance Ruling sought for	i) Applicability of GST rate of 5% (CGST 2.5% + SGST 2.5%) on marine engines of heading 8407, being the part of a fishing vessel of heading 8902, as per Entry Serial No.252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 & State Notification No. S.R.O. 360/2017. ii) Applicability of GST rate of 5% on spare parts of marine engine of heading 8407, used as part of a fishing vessel of heading 8902, as per Entry Serial No.252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 & State Notification No.S.R.O.360/2017.
Date of Personal Hearing	08/12/2021
Authorized Representative	Mr B. Somasekharan B.Sc., LL.B.

ADVANCE RULING No.KER/139 /2021 Dtd 25.06.2022

1. M/s. Kerala State Co-operative Federation for Fisheries Development Ltd. (Matsyafed) (hereinafter referred to as 'the applicant') is registered as a co-operative apex federation of primary level co-operative societies of fishermen of Kerala. It was set up by the Government of Kerala to meet the



credit and marketing requirements of the traditional fisheries sector. It is an apex co-operative society registered on 19-03-1984 under the Kerala Co-operative Societies Act, 1969.

2. At the outset, 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 requested an advance ruling on the following:

3.1. Applicability of GST rate of 5% (CGST 2.5% + SGST 2.5%) on marine engines of heading 8407, being the part of a fishing vessel of heading 8902, as per Entry Serial No.252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 & State Notification No. S.R.O. 360/2017.

3.2. Applicability of GST rate of 5% on spare parts of marine engine of heading 8407, used as part of a fishing vessel of heading 8902, as per Entry Serial No.252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 & State Notification No. S.R.O. 360/2017.

4. The contentions of the Applicant

4.1. The applicant submits that their members are primary fisheries co-operative societies, and the traditional fishermen are the members of the primary societies. The activities of the applicant include the supply of fishing implements and other equipment of the fishing industry to traditional fishermen. The applicant, imports marine engines of heading 8407 and spare parts used in marine engines of heading 8407. These engines and spare parts are supplied by Matsyafed to the traditional fishermen for use in their fishing vessels.



4.2. The applicant has been paying IGST @ 28% at the time of import of marine engines and their parts (as per Entry no.114 and 116 respectively of Schedule IV of Notification No.01/2017 Integrated Tax (Rate) dated 28.06.2017 and hence charging and collecting GST @ 28% on subsequent supply to the fishermen and paying the same to the Government. Bill of Entry in respect of import of marine engine and Bill of Entry in respect of import of parts of marine engines are submitted with this application.

4.3. Recently, in an application filed by M/s. South Indian Federation of Fishermen Societies, Trivandrum, the Authority of Advance Ruling, Kerala, held in Advance Ruling No.KER/10/2021 dtd.25-05-2021 that marine engines and their spare parts supplied by them for fishing vessels of heading 8902 would attract a GST rate of 5% only. The applicant files this application under these circumstances. The applicant submits that they are legally eligible to supply marine engine of heading 8407 or any heading and its spare parts falling under any heading for being used as parts of a fishing vessel of heading 8902, paying GST at the rate of 5% as per Entry Sl. No. 252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 and State Notification No. S.R.O. No.360/2017. As per Serial No.252 of Schedule No.1 of Notification No.1/2017-CT(R) dated 28.06.2017, parts of goods of headings 8901, 8902, 8904, 8905, 8906 and 8907, falling under any chapter of the Tariff, attract GST at the rate of 5%. Fishing vessels, factory ships and other vessels for processing or preserving fishery products fall under Tariff Heading 8902 and are liable to GST at the rate of 5% as per Entry Serial No.247 of Schedule I of Notification No.01/2017 CT(R) dated 28.06.2017. Therefore, the GST rate applicable for marine engines and their spare parts, falling under any chapter head, supplied for use as part of fishing vessels, falling under Tariff Heading 8902, is only 5%. CBIC Circular No.52/26/2018-GST dated 09.08.2018 has also clarified in its para 10.1 that marine engines



for fishing vessels would attract GST @ rate of 5% by virtue of serial No. 252 of Schedule No.1 of Notification No.1/2017-CT(R) dated 28.06.2017.

4.4. Recently, in an application filed by M/s. South Indian Federation of Fishermen Societies, Trivandrum, the Hon'ble Authority for Advance Ruling, held in Advance Ruling No.KER/102/2021 dtd.25-05-2021 that marine engines and their spare parts supplied for use in fishing vessels falling under Customs Tariff Heading 8902 would attract a GST rate of 5% only. (Paras 7.2 and 7.3 of the cited Advance Ruling).

5. Remarks of the Jurisdictional Officer

5.1. The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer has not offered any comments and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that no proceedings are pending on the issue against the applicant.

6. Personal hearing

6.1. The applicant was heard on 08.12.2021. The applicant reiterated the contentions made in the application and requested to issue a ruling based on the submissions 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. The question raised is regarding the Applicability of the GST rate of 5% (CGST 2.5% + SGST 2.5%) on marine engines of heading 8407, being the part of a fishing vessel of heading 8902, and on spare parts of the marine engine of heading 8407, used as part of a fishing vessel of heading 8902, as per Entry Serial No.252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 & State Notification No. S.R.O. 360/2017 dated 28.06.2017.



7.2. We have gone through the contentions of the applicant. In order to classify the products, the provisions of Notification No 01/2017 Central Tax (Rate) dated 28.06.2017 are to be verified. As per entry at SI No. 114 of Schedule IV of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017, the marine engines 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 attracts GST at the rate of 28%. 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 SI No. 247 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. However, as per entry in SI 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 Marine engines are supplied for use as part of a fishing vessel falling under Customs Tariff Heading 8902, then the marine engine as part of a fishing vessel will only attract GST at the rate of 5% as per the entry in SI 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 Para 10 of the circular reads as follows;

"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 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 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 10 93 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."

7.3. The contentions were examined in the light of the provisions contained in Notification No: 1/2017 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 falling under any chapter of the Customs Tariff attracts GST at the rate of 5 %. Therefore, if the marine engines are supplied for use as part of a fishing vessel falling under Customs Tariff Heading 8902, then the marine engine as part of a 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 fishing vessels as stated above, GST at the rate applicable under the respective Customs Tariff Headings in which they are classified will apply.

7.4. Given the observations stated above, the following rulings are issued:

RULING


1. Applicability of GST rate of 5% (CGST 2.5% + SGST 2.5%) on marine engines of heading 8407, being the part of fishing vessel of heading 8902,



as per Entry Serial No.252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 & State Notification No. S.R.O.360/2017.

2. Applicability of GST rate of 5% on spare parts of marine engine of heading 8407, used as part of fishing vessel of heading 8902, as per Entry Serial No.252 of Schedule I of Notification No.1/2017 CT(R) dated 28.06.2017 & State Notification No. S.R.O.360/2017.

Ruling: The marine engine 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 SI 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 fishing vessels as stated above GST at the rate applicable under the respective Customs Tariff Headings in which they are classified will apply.


Sreeparvathy S.L.
Joint Commissioner of Central Tax
Member


Abraham Renn S.
Additional Commissioner of State Tax
Member

To,

M/s. Kerala State Co-operative Federation for
Fisheries Development Limited
TC 43/373, Matsyafed,
Kamaleswaram, Manacaud,
Thiruvananthapuram - 695009.



Copy to,

1. The Chief Commissioner of Central Tax and Central Excise,
Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin- 682018.
[E-mail ID: cccocchin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department,
Tax Towers, Karamana, Thiruvananthapuram - 695002.
3. The Deputy Commissioner,
Special Circle, Thiruvananthapuram - 695002.

