

**THE AUTHORITY FOR ADVANCE RULING  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 74/2021  
Dated: 06-12-2021**

Present:

1. Dr. M.P.Ravi Prasad  
Additional Commissioner of Commercial Taxes . . . Member (State Tax)
2. Sri. T. Kiran Reddy,  
Joint Commissioner of Customs & Indirect Taxes. . . Member (Central Tax)

1.	Name and address of the Applicant	M/s. South Indian Federation of Fishermen Societies, SIFFS OBM Sales & Service Centre, Mulihithlu, Bolar, Mangalore, Dakshina Kannada-575001.
2.	GSTIN or User ID	29AACTS0090G1ZH
3.	Date of filing of Form GST ARA-01	05-08-2021
4.	Represented by	Sri John Bosco Deputy Chief executive (Finance) and DAR
5.	<b>Jurisdictional Authority - Centre</b>	The Principal Commissioner of Central Taxes, Mangalore GST Commissionerate, Mangaluru
6.	Jurisdictional Authority - State	ACCT, LGSTO-270, Mangaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act & Rs.5,000-00 under SGST Act vide CIN SBIN21072900088274 Dated 06.07.2021

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017  
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s South Indian Federation of Fishermen Societies, SIFFS OBM Sales & Service Centre, Mulihithlu, Bolar, Mangalore, Dakshina Kannada-575001 having GSTIN 29AACTS0090G1ZH, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and





Section 97 of the KGST Act, 2017 read with Rule 104 of the KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Charitable Society formed under the Travancore-Cochin Literacy Scientific and Charitable Societies Registration Act, 1955. This Society is engaged in undertaking various welfare activities for the poor fisherman in South India for the last forty years. They provide the fishermen necessary fishing requisites at concessional rate. Fishing boats and Iceboxes are manufactured by the Applicant while Marine engines for fishing vessels are imported from outside India

3. The applicant has sought advance ruling in respect of the following questions:

- i. *Rate of tax on Marine Engines coming under HSN Code 8407 and its spare parts exclusively used as part of fishing vessel of heading 8902.*
- ii. *Whether GST leviable on supply of materials and labour charges incurred during the warranty period, free of cost.*
- iii. *Rate of tax applicable for collection made towards supply of materials and labour charges towards repair of fishing vessels of heading 8902.*
- iv. *Rate of tax on puff insulated ice boxes used by fishermen in fishing vessels for reducing spoilage and maintaining good hygiene.*
- v. *Rate of tax on marine engine coming under HSN Code 8407 supplied to Defence Department for patrol, flood relief and rescue operations*

4. **Admissibility of the application:** The question is about “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2)(e) of the CGST Act 2017

5. **Brief Facts of The Case:** The applicant furnishes some facts relevant to the issue:

5.1 The Applicant is a Charitable Society formed under the Travancore-Cochin Literacy Scientific and Charitable Societies Registration Act, 1955. This Society is engaged in undertaking various welfare activities for the poor fisherman in South India for the last forty years. They provide the fishermen necessary fishing requisites at concessional rate. Fishing boats and Iceboxes are manufactured by them while Marine engines for fishing vessels are imported from outside India.

5.2 The applicant states that they are the apex body of several fishermen societies and their activities are spread throughout the South India. They are having their head office at Trivandrum and branches in various parts of Tamilnadu and Karnataka. All these branches are having separate registration under the GST Act in the respective States.





5.3 The applicant's Head office in Trivandrum is manufacturing as well as procuring the fishing requisites in large quantities from various places and also importing from abroad. These items are subsequently transferred to their Branches in various places in South India for supply to the fishermen.

5.4 The applicant states that the fishing community is one of the most backward and vulnerable communities in India and currently struggling to cope up with the limited income due to decline in fish catch for several reasons including climate change and natural disasters.

5.5 This office has received the comments from the office of the Commissioner of the Central Excise and Central tax (GST) Mangalore -575003 dated 11<sup>th</sup> October 2021 are furnished as under:

**Para 1: Rate of tax on Marine Engines coming under HSN Code 8407 and its spare parts exclusively used as part of fishing vessel of heading 8902.**

*The Department of Revenue, Government of India Circular No.52/26/2018-GST dated 09.8.2018 has 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. Going by the same analogy, it appears that the marine engine and its spare parts supplied for use in fishing vessels falling under Customs Tariff Heading 8902, will 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. However, such supply should be for use as parts of fishing vessels.*

**Para 2. Whether GST leviable on supply of materials and labour charges incurred during the warranty period, free of cost.**

*This issue has been clarified in Sectorial FAQs by CBIC, for IT/ITES Sectors as under:*

*Question 20: What would be the tax liability on replacement of parts (no consideration is charged from a customer) under a warranty and whether the supplier is required to reverse the input tax credit? Answer: As part are provided to the customer without a consideration under warranty, n GST is chargeable on such replacement. The value of supply made earlier includes the charges to be incurred during the warranty period. Therefore, the supplier who has undertaken the warranty replace is not required to reverse the input tax credit on the parts/components replaced.*

*It appears that the above clarification applies for the instant case also.*

**Para 3. Rate of tax applicable for collection made towards supply of materials and labour charges towards repair of fishing vessel of heading 8902.**

*The supply of maintenance and repair service of fishing vessels is classifiable under SAC 998714 and is liable to GST at the rate of 18% [9%-*





CGST + 9%-SGST) as per Sl.No.25(ii) of the Notification No.11/2017 – Central Tax (Rate) dated 2.06.2017. The Kerala Authority of Advance Ruling on GST, on the same application of the party held that where the contract of supply of repair or maintenance specifies that the spare parts and services are to be separately charged and the value of such spare parts and services supplied are shown separately the spare parts and the services will attract GST respectively at the rates applicable to such spare parts and service as per the GST rate schedule. In such cases the spare parts being supplied for use as part of fishing vessels will attract GST at the rate of 5% (2.5%-CGST+2.5%-SGST) as per Sl.No.25(ii) of the Notification No.11/2017 – Central Tax (rate) dated 28.06.2017.

**Para 4: Rate of tax on puff insulated ice boxes used by fishermen in fishing vessels for reducing spoilage and maintaining good hygiene.**

The puff insulated ice boxes product falls under Customs Tariff Head 3933 and is liable to GST at the rate of 18% (9%-CGST + 9%-SGST) as per entry at Sl.No. 108 of Schedule III of Notification No.01/2017 Central Tax (Rate) dated 28.09.2017.

**Para 5: Rate of tax on marine engine coming under HSN Code 8407supplied to Defence Department for patrol, flood relief and rescue operations.**

Going by the comments submitted in para 1 above, the marine engine which falls under Customs Tariff Heading 8407 when supplied for use as part of vessels falling under Customs Tariff Heading 8906 (Other Vessels, including warships) which covers vessels for Defence and other agencies used for patrol, relief and rescue operations) will 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.

**VIRTUAL HEARING/ PROCEEDINGS HELD ON 08-09-2021**

6. Sri John Bosco and Deputy Chief executive (Finance) and Duly Authorized Representatives of the applicant appeared for virtual hearing proceedings held on 8<sup>th</sup> September 2021 before this authority and they reiterated the contentions made in the application and also explained the process in detail.

**FINDINGS & DISCUSSION**

7. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *pari-materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.





8. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by applicant and his authorized representatives during the hearing. We also considered the issue involved on which advance ruling is sought by the applicant and relevant facts.

9. The transaction relating to the first question sought by the applicant is verified. It is an admitted fact that the applicant is classifying marine engines under Customs Tariff Heading 8407 21 00- Outboard motors –Marine Propulsion engines. Further the Fishing vessels, factory ships and other vessels for processing or preserving fishery products fall under Customs Tariff Heading 8902 and is 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.

10. In the instant case, the applicant admitted to be supplying marine engines (HSN 8407 21 00) and spares for fishing vessels (HSN 8902) as parts of the same. As per entry at Sl. No 252 of Schedule I of the Notification No.01/2017 Central Tax (Rate) dated 28.06.2017 goods of any chapter being *parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907* attract CGST @ 2.5% as under:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	Rate
252.	Any chapter	Parts of goods of headings 8901, 8902, 8904, 8905, 8906, 8907	2.5%

Further, the same is also clarified by the CBIC vide Circular No.52/26/2018-GST dated 09.08.2018. The relevant Para 10.1 of the circular reads 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 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 Sl.No.252 of Schedule I of the said notification. The Marine engine for fishing vessels falling under Tariff item 8904 10 93 of the Customs Tariff Act, 1975 would attract a GST rate of 5% by virtue of Sl.No.252 of Schedule 1 of the Notification No.01/2017-Central Tax (Rate) dated: 28.06.2017.

10.2 Therefore, it is clarified that marine engine and its spare parts supplied for use in fishing vessels (being a part of the fishing vessel), falling under tariff item 8408 10 93 attracts 5% GST.”

Thus, marine engines and spare parts used for fishing vessels (being part of the fishing vessel) attract 5% GST. If marine engine is supplied for use other than as parts of fishing vessels as stated above, the rate of GST is applicable under the respective Customs Tariff Headings in which they are classified.

11. The transaction relating to the Second question sought by the applicant is verified. The applicant is engaged in supply of materials and labour incurred





without any consideration (free of cost) during the warranty period. It is an admitted fact that the warranty is a **promise or guarantee** for the goods / services supplied by the applicant.

During the warranty period the goods and service have been supplied to customers as free of charge. No separate consideration is charged and received at the time of replacement. This is because consideration for the same has been recovered at the time of supply of principal goods. However, the tax on the same would have been paid at the time of principal supply of goods; as such costs are included in the price of principal goods supplied. Therefore the replacement of the goods and service during the warranty period without consideration does not come under the purview of supply and no GST is leviable in such case.

12. The third question sought by the applicant pertains to rate of tax applicability on supply of materials along with labor charges incurred towards repair of fishing vessels. In this regard the applicant has furnished copy of the bill only and not furnished any of the contract/agreement entered with customers for supply of repair or maintenance service of fishing vessels. Upon verification of the bill raised by the applicant to Neendakara Boatyard, Kollam, Kerala it is ascertained that the applicant is charging taxes at the applicable rate of tax on goods and charging tax at the rate of 18% on service vide SAC 9987 ( Maintenance ,repair and installation service).

12.1 The activity of rendering repair or maintenance services of fishing vessels/boats etc involve supply of both goods/spare parts and services in conjunction and naturally bundled with each other in the ordinary course of business treated as composite supply. Unless from the contract it is ascertained that the supply of goods as well as service are to be separately charged, the nature of supply remains a composite supply.

12.2 The principal supply however depends on the dominant element of the composite supply. Though in the process of maintenance or repair of fishing vessels there is supply of goods/spare parts, there is no transfer of title in the goods/spare parts as such and hence the supply of goods/spare parts are ancillary to the repair or maintenance of the fishing vessels. Hence the predominant element of the supply is not the transfer of title in goods/spare parts but that of service of repair or maintenance and the supply of goods/spare parts being ancillary/incidental to the activity of repair or maintenance it is appropriately classifiable under Heading 9987-998714 – Maintenance and repair of transport machinery and equipment under the Scheme of Classification of Services notified as Annexure to Notification No.11/2017 Central Tax (Rate) dated 28.06.2017 and is liable to GST at the rate of 18% (9%-CGST+9%-KGST) as per Sl.No.25(ii) of the Notification No.11/2017 Central Tax (Rate) dated 28.06.2017.

13. The fourth question sought by the applicant pertains to rate of tax on puff insulated ice boxes used by fishermen in fishing vessels for reducing spoilage and maintaining good hygiene.





The puff insulated ice boxes are appropriately classifiable under Customs Tariff Heading 3923 10 30 – Articles for the conveyance or packing of goods, made of plastics – Boxes, cases, crates and similar articles – Insulated ware. The said articles falling under Customs Tariff Head 3923 are liable to GST at the rate of 18% [9% -CGST +9%-KGST] as per entry at Sl.No.108 of Schedule III of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. The ice box is used in the fishing vessels for storage of fish to reduce spoilage and to maintain freshness of fish during conveyance. The product cannot be considered as a part of fishing vessel falling under Customs Tariff Heading 8902 and hence is not eligible for the concessional rate of GST as per entry at Sl.No.252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017.

14. The fifth question sought by the applicant pertains to Rate of tax on marine engine falling under HSN Code 8407 supplied to Defence Department for patrol, flood relief and rescue operations. The marine engines are supplied for use as part of 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 Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017 parts of goods of heading 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 vessel falling under Customs Tariff Heading 8906, which are used by the Department of Defense and other agencies for patrol, relief and rescue operations, then the marine engine as part of such vessel will only attract GST at the rate of 5% as per the said entry.

15. In view of the foregoing, we rule as follow

### **RULING**

i. *The marine engine and its spare parts supplied for fishing vessel(for use as part of the fishing vessel- CTH 8902) shall attract GST at the rate of 5% [2.5%-CGST + 2.5%-KGST) 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 GST shall be applicable at the rate of tax on such goods under the respective Customs Tariff Heading classified.*

ii. *The provision of material and labour during warranty period without consideration(free of cost) does not come under the purview of supply in terms of Section 7 of the CGST Act, 2017 and no GST is leviable in such free of cost replacements/labour services.*

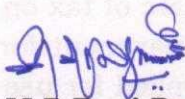
iii. *The activity of repair of fishing vessels is a composite supply involving supply of material/spares which is ancillary to the predominant supply of services. The supply is appropriately classifiable under Heading 9987-998714 – Maintenance and repair of transport machinery and equipment and vide Sl.No.25(ii) of the Notification No.11/2017 Central Tax (Rate) dated 28.06.2017 the supply is liable to GST at the rate of 18% (9%-CGST+9%-KGST).*





iv. The puff insulated ice boxes are appropriately classifiable under Customs Tariff Heading 3923 10 30 – Articles for the conveyance or packing of goods, made of plastics – Boxes, cases, crates and similar articles – Insulated ware. The said articles falling under Customs Tariff Head 3923 are liable to GST at the rate of 18% [9% - CGST +9%-KGST] as per entry at Sl.No.108 of Schedule III of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017.

v. Marine engines supplied for use as part of vessel falling under Customs Tariff Heading 8906, which are used by the Department of Defence and other agencies for patrol, relief and rescue operations, then the marine engine as part of such vessel will only attract GST at the rate of 5% [2.5% -CGST +2.5%-KGST] as per the said entry.



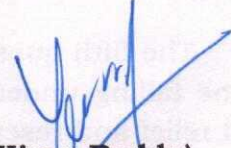
**(Dr.M.P.Ravi Prasad)**

**Member**

**MEMBER**

Karnataka Advance Ruling Authority  
Place: Bengaluru, 560 009

Date: 06-12-2021



**(T. Kiran Reddy)**

**Member**

**MEMBER**

Karnataka Advance Ruling Authority  
Bengaluru - 560 009

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Mangalore GST Commissionerate, Mangaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-270, Mangaluru.
5. Office Folder.

