

GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
---	---

ADVANCE RULING NO. GUJ/GAAR/R/2017-18/4
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017-18/AR/4)

Date : 17.1.2018

Name and address of the applicant	:	M/s. Aqua Machineries Pvt. Ltd. Plot No. 3821, Phase – IV, GIDC Vatva, Ahmedabad.
GSTIN of the applicant	:	24AACCP3014A1ZB
Date of application	:	18.08.2017
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both
Date of Personal Hearing	:	30.11.2017
Present for the applicant	:	Shri K.A. Nagar, Consultant

The applicant, M/s. Aqua Machineries (Pvt.) Ltd. manufactures and supplies Power Driven Pumps (falling under Chapter Heading 8413), which are primarily designed for handling water, which is of either clear or raw or storm or waste or sewerage. The said pumps are not fitted with measuring device. As the different items falling under Chapter Heading 8413 attract different rates viz. 5%, 12% or 28% under Goods and Services Tax, the applicant has raised the following questions for advance ruling –

- (i) There is no specific description of Chapter Heading 8413 for the Power Driven Pumps used for dispensing an exact nature of water such as clear, raw, storm, waste or sewerage, and hence whether the description “Power driven pumps primarily designed for handling water, namely centrifugal pumps (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps” is applicable to the applicant;
- (ii) Whether the applicant is eligible for GST rate of 12% on supply of goods in question.

2. The applicant submitted that the goods in question are pumps primarily designed for handling water, either clear or storm or waste or sewerage, and not fitted with measuring device. The same cannot be said to be primarily designed for chemical or fuel or gas handling. In the above description, phrase ‘handling water’ has been used, which denotes handling of water either clear or raw or storm or waste or sewerage, therefore, the impugned goods are specifically covered by the aforementioned description of Chapter Heading 8413 of GST Tariff, which attract the rate of 12%.

3. It is further submitted that the said goods primarily designed for handling water, and thus the same cannot be treated as the pumps for dispensing fuel, lubricants, gas or chemical, which attract GST @ 28%. It is also submitted that all other goods for which GST rate are not specified elsewhere are subject to GST @ 18%, but since the impugned Power Driven Pump primarily meant for handling water falls under the aforesaid description, the GST rate of 18% is not applicable to the said goods.

4. In the further submissions dated 30.11.2017, the applicant referred and relied on the decisions in the cases of Modi Industrial Ltd. Vs. Collector of Central Excise, Bombay [1994 (73) ELT 642 (Tri.)] and CCE Vs. Bank Morse (I) Ltd. [1993 (68) ELT 153 (Tribunal)] and [1996 (86) ELT A76 (S.C.)]

5. The Goods and Services Tax and Central Excise Commissionerate, Ahmedabad South informed that as per the description given by the applicant, the product namely 'Power Driven Pumps, primarily designed for handling water', appears akin to the entry at serial no. 192 of Schedule II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017.

6. We have considered the submissions made by the applicant in their application, their further submissions and at the time of personal hearing. We have also considered the views of the Goods and Services Tax and Central Excise Commissionerate, Ahmedabad South.

7. We observe that the main issue involved in this case is whether the goods supplied by the applicant are covered under Sl. No. 192 of Schedule II of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017 (herein after referred to as the 'CGST Act, 2017') and corresponding Notifications issued under the Gujarat Goods and Services Tax Act, 2017 (herein after referred to as the 'GGST Act, 2017') and the Integrated Goods and Services Tax Act, 2017 (herein after referred to as the 'IGST Act, 2017'). The said Sl. No. 192 of Schedule II of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017 reads as follows :-

SCHEDULE II - 6%

S. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of Goods
(1)	(2)	(3)
192.	8413	Power driven pumps primarily designed for handling water, namely, centrifugal pumps (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps

8. The issue has been raised by the applicant on the ground that the specific description of the term 'water' has not been given at aforesaid Sl. No. 192 of Schedule – II of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017 and exact nature of water (clear, raw, storm, waste or sewage) has not been defined.

9.1 We observe that it is now well settled principle of interpretation of statute that the word not defined in the statute must be construed in its popular sense, meaning 'that sense which people conversant with the subject matter with which the statute is dealing would attribute to it'. It is to be construed as understood in common language. In the case of Indo International Industries Vs. Commissioner of Sales Tax, U.P. [1981 (8) E.L.T. 325 (S.C.)], Hon'ble Supreme Court has held as follows :

“4. It is well settled that in interpreting Items in statutes like the Excise Tax Acts or Sales Tax Acts, whose primary object is to raise revenue and for which purpose they classify diverse products, articles and substances resort should be had not to the scientific and technical meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them. If any term or expression has been defined in the enactment then it must be understood in the sense in which it is defined but in the absence of any definition being given in the enactment the meaning of the term in common parlance or commercial parlance has to be adopted.”

9.2 This view was upheld by Hon’ble Supreme Court in the case of Oswal Agro Mills Ltd. Vs. Collector of Central Excise [1993 (66) E.L.T. 37 (S.C.)]. While reiterating the principle that in absence of statutory definitions, they have to be construed according to their common parlance understanding, Hon’ble Supreme Court, in the case of Commissioner of Central Excise Vs. Connaught Plaza Restaurant (P) Ltd. [2012 (286) E.L.T. 321 (S.C.)], has referred to various decisions on the subject and observed as follows :-

Common Parlance Test :

“18. Time and again, the principle of common parlance as the standard for interpreting terms in the taxing statutes, albeit subject to certain exceptions, where the statutory context runs to the contrary, has been reiterated. The application of the common parlance test is an extension of the general principle of interpretation of statutes for deciphering the mind of the law maker; “it is an attempt to discover the intention of the Legislature from the language used by it, keeping always in mind, that the language is at best an imperfect instrument for the expression of actual human thoughts.” [(See Oswal Agro Mills Ltd (supra)].”

10.1 We, therefore examine whether the term ‘water’ at Sl. No. 192 of Schedule – II of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017 refers to clear and raw water or it also includes sewage or waste.

10.2 It is observed that in the same Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017, Sl. No. 238 of Schedule – III reads as follows :-

S. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of Goods
(1)	(2)	(3)
238.	7326	Other articles of iron and steel, forged or stamped, but not further worked; such as Grinding balls and similar articles for mills, articles for automobiles and Earth moving implements, articles of iron or steel Wire, Tyre bead wire rings intended for use in the manufacture of tyres for cycles and cycle-rickshaws, Belt lacing of steel, Belt fasteners for machinery belts, Brain covers, plates, and frames for sewages, water or similar system, Enamelled iron ware (excluding utensil & sign board), Manufactures of stainless steel (excluding utensils), Articles of clad metal

Thus, from the plain reading of the aforesaid entry, it is evident that the terms ‘sewage’ and ‘water’ have been separately used in the said Notification and therefore the term ‘water’ cannot be said to include ‘sewage’ or waste. Had the intention of the legislature been to include ‘sewage’ also in the term ‘water’ for the purpose of Notification No. 1/2017-Central Tax (Rate), then the term ‘sewage’ and ‘water’ would not have been separately used, as is the case at Sl. No. 238 of Schedule – III of the said Notification.

10.3 In common parlance, when one refers to 'water', it is understood in the sense of clear or raw water and not in the sense of 'sewage'. In commercial parlance also, 'pumps primarily designed for handling water' and 'other pumps or pumps designed for handling sewage' are distinctly known, which is evident from the fact that the applicant was showing 'water submersible pumps' and 'other submersible pumps' separately in the periodic returns (ER-1) being filed by them with the authorities in the erstwhile Central Excise regime.

11. We have also gone through the decisions relied upon by the applicant and observe that the said decisions rendered in the context of different Notification issued under earlier tax regime are not applicable to the present case inasmuch as the issues discussed hereinabove were not applicable in those Notifications and not discussed in those decisions.

12. In view thereof, we hold that the pumps for sewage or waste would not be covered by Sl. No. 192 of Schedule II of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017 and corresponding Notifications issued under the GGST Act 2017 and the IGST Act, 2017 and would not be eligible for Goods and Services Tax rate of 12% (CGST 6% + SGST 6% or IGST 12%).

13. In view of the foregoing, we rule as under –

RULING

The product 'Pumps for sewage or waste' would not be covered by Sl. No. 192 of Schedule II of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017 and corresponding Notifications issued under the GGST Act 2017 and the IGST Act, 2017.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad
Date : 17.1.2018