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/2017-18/5
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017-18/AR/11)

Date : 17.1.2018

Name and address of the applicant	:	M/s. Dyna Automation Private Limited 205, Kaivana Complex, Panchwati, Ahmedabad – 380 006
GSTIN of the applicant	:	24AAACD5318D1Z8
Date of application	:	04.09.2017
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; (e)determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing	:	15.11.2017
Present for the applicant	:	Shri Nilesh V. Suchak

The applicant has raised following questions for advance ruling in their application :-

(i) What is the classification and rate of Goods and Services Tax for Hydraulic Gear Pump and Piston Pump which are parts suitable for use principally with Earth Boring, Earth Moving & Material Handling Equipment or parts suitable for use principally with the machinery of headings 8425 to 8430 ?

(ii) What is the classification and rate of Goods and Services Tax for Hydraulic Gear Pump and Piston Pump which are used as parts for agricultural machinery ?

(iii) What is the classification and rate of Goods and Services Tax for Hydraulic Gear Pump and Piston Pump which are used as parts of machine tools ?

(iv) What is the classification and rate of Goods and Services Tax for Steering unit which is a kind of hydraulic valve and used as intermediate parts of hydraulic systems in agricultural harvesting machine ?

(v) What is the classification and rate of Goods and Services Tax for Servo Drive (Electric Inverter or Resolver Inverter) ?

(vi) What is the classification and rate of Goods and Services Tax for Hydraulic Gear Flow Divider ?

2. At the time of Personal Hearing held on 15.11.2017, the applicant submitted that advance ruling is now required on question (iv) above only and not for other questions viz. questions (i), (ii), (iii), (v) and (vi).

3. The applicant submitted that they had imported above stated goods post 01.07.2017 and due to initial classification issues, they were advised to take a conservative view and pay higher IGST Rate of 28% and accordingly the customs had cleared the goods by charging 28% IGST but it appeared that the goods should be chargeable at 18%. It is submitted that 'Steering Unit' which is a kind of hydraulic valve and used as intermediate parts of hydraulic systems in agricultural harvesting machine merit classification under 8481 2000 and Rate of IGST is 18% or CGST 9% + SGST 9% vide Notification No. 1/2017-CT(Rate), Schedule – III 9%, Sl. No. 368 – "Taps cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves".

4.1 At the time of Personal Hearing on 15.11.2017, it was submitted that this product may merit classification under Tariff Heading 8481 or under 8431 under Schedule – III, Sl. No. 328 (attracting Rate CGST 9% + SGST 9%) with description "Parts suitable for use solely or principally with the machinery of headings 8425 to 8430" and more specifically under 8431 4200 as 'Parts of Bulldozers" or under 8431 4930 as "Parts of other excavating, leveling, tamping or excavating machinery for earth, mineral or ores".

4.2 The applicant requested that item stated at Sr. 4 namely Steering Unit (Hydraulic Orbital Valve) should be correctly classified under Heading 8481 as it is a valve on which steering unit is mounted. Sample is shown to us and catalogue is provided.

4.3 The Bill of Entry submitted is mentioning Heading 8708. The representative was therefore requested to file evidences as to show that there are conflicting views in Customs itself.

5. The applicant, vide letters dated 07.12.2017 and 11.12.2017, submitted copy of Bill of Entry No. 427360 dated 05.12.2017, wherein the product 'Steering Unit i.e. Hydrostatic Steering Unit (Hydraulic Orbital Valve) has been classified under Tariff Item 8481 2000 of the Customs Tariff Act, 1975.

6. It has been informed by the Goods & Services Tax and Central Excise, Ahmedabad South Commissionerate that no records / documents have been submitted by the party along with their application in their office due to non registration of the unit with their office; that unless and until full detailed scrutiny of the details of the product imported is made, their office is not in a position to accept or deny the classification opinion of the party.

7. We have considered the submissions made by the applicant in their application for advance ruling and additional submissions made at the time of personal hearing on 15.11.2017. We have also considered the information and view of the Goods & Services Tax and Central Excise, Ahmedabad South Commissionerate.

8.1 The issue involved in this case pertains to classification of the product 'Steering Unit (Hydraulic Orbital Valve)' i.e. whether the said product falls under Chapter Heading 8481 or 8431 or 8708 of the Customs Tariff Act, 1975. On the basis of the classification of the said product, it will be leviable to appropriate rate of Goods and Services Tax prescribed under 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 Notification issued under the Gujarat Goods and Services Tax Act, 2017 (herein after referred to as the 'GGST Act, 2017') or the Integrated Goods and Services Tax Act, 2017.

8.2 It is observed that the Explanation (iii) and (iv) of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 provides as follows :-

"Explanation. - For the purposes of this notification, -

(i) ……

(ii) ……

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification."

8.3 Further, Hon'ble Supreme Court in the case of L.M.L. Ltd. Vs. Commissioner of Customs [Civil Appeal No. 3764 of 2003, decided on 21.09.2010 reported at 2010 (258) ELT 321 (S.C.)] has held as follows :-

"12. In Collector of Central Excise, Shillong v. Wood Crafts Products Ltd. reported in (1995) 3 SCC 454, it was held by this Court that as expressly stated in the statements of objects and reasons of the Central Excise Tariff Act, 1985, the Central Excise Tariffs are based on the Harmonious System of Nomenclature (HSN) and the internationally accepted nomenclature was taken into account to reduce disputes on account of tariff classification. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the Harmonious System of Nomenclature (HSN). Although, the decision in the case of Woodcraft Products (supra) dealt with the interpretation of the provisions of the Central Excise Tariff there can be no doubt that the HSN Explanatory Notes are a dependable guide even while interpreting the Customs Tariff."

9.1 Note 2 of Section XVI of the Customs Tariff Act, 1975 provides as follows :-

"2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules :

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 aw appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

(c) *All other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548."*

9.2 Further, Note 2 of Section XVII of the Customs Tariff Act, 1975 provides as follows :-

> *"2. The expression "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this section :*
>
> *(a) ……*
> *(b) ……*
> *(c) ……*
> *(d) ……*
> *(e) Machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 8483;*
> *(f) ……*
> *(g) ……*
> *(h) ……*
> *(ij) ……*
> *(k) ……*
> *(l) ……*

10.1 It is observed that in the application for advance ruling, the applicant has submitted that 'Steering Unit' is a kind of hydraulic valve and used as intermediate parts of hydraulic systems in agricultural harvesting machine whereas in the submission made at the time of Personal Hearing, it has been submitted that this product may merit classification under 8431 with description "Parts suitable for use solely or principally with the machinery of headings 8425 to 8430" and more specifically under 8431 4200 as 'Parts of Bulldozers" or under 8431 4930 as "Parts of other excavating, leveling, tamping or excavating machinery for earth, mineral or ores".

10.2 We find that Tariff Heading 8431 covers "parts suitable for use solely or principally with the machinery of headings 8425 to 8430" whereas Harvesting Machinery falls under Chapter Heading 8433. Therefore, the product "Steering Unit (Hydraulic Orbital Valve)" cannot be termed as "parts suitable for use solely or principally with the machinery of headings 8425 to 8430". The product "Steering Unit (Hydraulic Orbital Valve)" also does not merit classification under Tariff Item 8433 9000 as "Parts" of Harvesting or threshing machinery etc. in view of Section Note 2(b) Section XVI.

11.1 The Chapter Heading 8481 of the Customs Tariff Act, 1975 applies to "Taps, cocks, valves and similar appliances for pipes, boiler, shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves".

11.2 The Explanatory Notes for 'Taps, Cocks, Valves and similar appliances for Pipes, Boiler Shells, Tanks, Vats or the like, including Pressure Reducing Valves and Thermostatically Controlled Valves' under Tariff Heading 8481 of the Harmonised System of Nomenclature, *inter-alia*, provides as follows :-

> *" ……*
>
> *<u>Taps, cocks, valves, etc., remain in this heading even if specialized for use on a particular machine or apparatus, or on a vehicle or aircraft.</u> However, certain machinery parts which incorporate a complete valve, or which regulate the flow of a fluid inside a machine although not forming a complete valve in themselves, are classified as parts of the relative machines, for example, inlet or*

exhaust valves for internal combustion engines (heading 84.09), slide valves for steam engines (heading 84.12), suction or pressure valves for air or other gas compressors (heading 84.14), pulsators for milking machines (heading 84.34) and non-automatic greasing nipples (heading 84.85).

…..”

[underlining supplied]

11.3 Thus, in view of Note 2(a) of Section XVI of the Customs Tariff Act, 1975 and Explanatory Notes for ‘Taps, Cocks, Valves and similar appliances for Pipes, Boiler Shells, Tanks, Vats or the like, including Pressure Reducing Valves and Thermostatically Controlled Valves’ under Tariff Heading 8481 of the Harmonised System of Nomenclature, the product ‘Steering Unit (Hydraulic Orbital Valve)’ is appropriately classifiable under Tariff Heading 8481 of the Customs Tariff Act, 1975. Further, as the expression “parts” and “parts and accessories” under Section XVII of the Customs Tariff Act, 1975 do not apply to articles of heading 8481 in view of Note 2(e) of Section XVII of the Customs Tariff Act, 1975, and the product ‘Steering Unit (Hydraulic Orbital Valve)’ is item of Tariff Heading No. 84.81, the said product cannot be considered to be parts of vehicle, as it is excluded from Section XVII and hence the said product do not fall under Tariff Heading 8708 as “Steering wheels, steering columns and steering boxes; parts thereof”.

11.4 Further, Explanatory Notes to Heading 87.08 of ‘parts and accessories of the motor vehicles of headings 87.01 to 87.05’ *inter-alia* reads as follow :-

“This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, provided the parts and accessories fulfill both the following conditions :

(i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles; and
(ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).”

Since the articles of Tariff Heading 84.81 are specifically excluded from Section XVII vide Section Note 2(e) of the Customs Tariff Act, 1975, on this ground also the product ‘Steering Unit (Hydraulic Orbital Valve)’ cannot be considered to be part of the vehicle for the purpose of classification.

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

R U L I N G

The product “Hydraulic Orbital Valve” is classifiable under Tariff Heading 84.81 of the Customs Tariff Act, 1975 and Goods and Services Tax rate applicable to Tariff Heading 84.81 is applicable to the said product.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad
Date : 17.1.2018.