Case Citation: (2022) taxcode.in 63 AARGST

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

ADVANCE RULING NO. GUJ/GAAR/R/2022/44
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/25)

Date: 28/09/22

Name and address of the applicant	:	M/s. Kirloskar Oil Engines Ltd., SNK logistics Park, D1 Warehouse, C/o VSM supply chain solution Pvt. Ltd., Bavla Bagodara Highway, Bhayala Ta Bavla, Ahmedabad, Gujarat- 382240
GSTIN/ User Id of the applicant	:	24AADCK5714H1ZQ
Date of application	:	04-05-2022
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	*(a)*
Date of Personal Hearing	:	08-07-22 and 02-09-22
Present for the applicant	:	P.Ghosh (Senior General Manager), Y.D. Davare (AGM), Y.M.Pandya (Senior Officer)

Brief facts:

M/s Kirloskar Oil Engines Ltd (referred to as 'the applicant' for the sake of brevity) has submitted that it is engaged in manufacturing of Pump Set and Diesel Engine at Rajkot plant and intend to sale. It is submitted that in the GST Tariff Mechanical Sprayer is classified @12% with Tariff Heading 8424 in the Notification No. 11/2017-CT (Rate) dated 28-6-2017 as amended vide Not. No. 6/2018-CT (Rate) dated 25-6-208 at Entry No. 195B. However, agriculture and horticulture sprayer is classified @18% GST.

2. The applicant has submitted the details of the product HTP (Horizontal Triplex Plunger) kirloskar Power Sprayer (Engine Driven):

HTP Sprayer - Horizontal Triplex Plunger sprayer is a mechanical pumping system which develops the required pressure to spray water and other liquids <u>for various agriculture and industrial purposes.</u>

3. It is submitted that the applicant procuring HTP sprayer from importers or domestic manufactures like Aspee, Mumbai and engines from other vendor to manufacture HTP Kirloskar Power Sprayer set at Rajkot Plant. The complete HTP Sprayer set is packed in a carton box and sold through dealer network.

3. The applicant has submitted major parts of HTP Sprayer as follows:

- Petrol Engine
- Base frame made of Steel

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- V Pully
- Power Sprayer etc.

4. **Question on which Advance Ruling sought**:

(1) What is the 8 digit HSN and GST tax rate of HTP kirloskar Power Sprayer (engine driven).

Personal Hearing:

5. Personal hearing granted on 02-09-22 was attended by Shri P.Ghosh (SGM), Shri Y.D. Davare (AGM) and SHri Y.M.Pandya (Senior Officer) and he reiterated the submission. On being asked specifically it is submitted that this Mechanical Sprayer is used in agriculture as well as in other fields to spray the pesticide and other liquid. Further, submitted that they do not have any such data of customer/ client by which it can be ascertain that for which purpose the impugned goods was purchased and in which field the same would be used.

Revenue's Submission:

6. Revenue has neither submitted its comments nor appeared for hearing.

FINDINGS:

7. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by authorised signatory, during the personal hearing proceedings on 2-9-22 before this authority. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

8. At the outset we would like to make it clear that the provisions of CGST Act and GGST Act are in *parimateria* 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 GGST Act.

9. We find that the issue before us is to decide the classification and applicable GST rate of the applicant goods viz. power driven Mechanical Sprayer.

10. We find that applicant procuring HTP sprayer from importers or domestic manufactures like Aspee, Mumbai and engines from other vendor to manufacture HTP Kirloskar Power Sprayer. The major parts used in manufacture of HTP Sprayer as follows:

- Petrol Engine
- Base frame made of Steel
- V Pully
- Power Sprayer etc.

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10.1 We have visited the applicant website https://www.kirloskaroilengines.com/products/farm-mechanization/sprayer to know the details about the goods in question and detailed mentioned in the website is re-produced as under :

Kirloskar Farm Mechanization Power Sprayer:

High-Performance, Versatile Agriculture Sprayers

Kirloskar Farm Mechanization power sprayer *is a perfect combination of advance technology, user-friendliness and versatility. The sprayer is ergonomically designed to ensure effective pesticide application in agricultural fields, orchards, tea plantations and vegetable gardens. The gun-type power sprayer aids in uniform spraying, ensuring effective control of pests.*

- *Suitable to spray pesticides and insecticides for pest control in Guava, Grapes, Mango, Coconut, Banana, Papaya, Pomegranate and Chikku*
- *Properly segregated containers for seeds and fertilizer*
- *Pulley-driven multipurpose spraying machine*
- *All-purpose farm equipment, ideal for both small and large scale spraying*
- *Rugged and sturdy construction*

The power sprayer by Kirloskar Farm Mechanization ensures comfort and reduced time, with improved productivity.

10.3 We find that the applicant product HTP (Horizontal Triplex Plunger) kirloskar Power Sprayer (Engine Driven) is a mechanical pumping system which develops the required pressure to spray water and other liquids and its application are in agriculture field and other fields.

10.4 The representative of the applicant during the personal hearing has submitted that the impugned goods can be used in any field as per their application and it is not used exclusively in agriculture field. Further, submitted that they supply the product to the client/customer of various field and do not maintain any such data by which it can be ascertain that the customer/ client for which purpose or can say in which field it would be used.

10.5 We have observed from the facts put forth by the applicant and as discussed in above paras, the product in question is essentially a Mechanical Appliances operated by petrol engine which is used for spraying liquids as per the requirement. We find that there is no dispute to the classification of product, which even as per the own admission of the applicant would be under Chapter Head 8424 of the GST Tariff. We refer to HSN 8424 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), which reads as under:

8424	MECHANICAL APPLIANCES (WHETHER OR NOT HAND OPERATED) FOR PROJECTING, DISPERSING OR SPRAYING LIQUIDS OR POWDERS; FIRE EXTINGUISHERS, WHETHER OR NOT CHARGED;

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	SPRAY GUNS AND SIMILAR APPLIANCES; STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES
8424 10 00	- Fire extinguishers, whether or not charged
8424 20 00	- Spray guns and similar appliances
8424 30 00	- Steam or sand blasting machines and similar jet projecting machines
	- Other appliances :
8424 81 00	-- Agricultural or horticultural
8424 89	-- Other :
8424 89 10	-- Painting equipment, including electrostatic-phosphating and powder coating equipment
8424 89 20	--- Industrial bellows
8424 89 90	--- Other
8424 90 00	- Parts

10.5 We refer to Harmonised System of Nomenclature (HSN) which is guiding principal to determine the correct classification of the goods. HSN 8424 is reproduced as under :

8424	MECHANICAL APPLIANCES (WHETHER OR NOT HAND OPERATED) FOR PROJECTING, DISPERSING OR SPRAYING LIQUIDS OR POWDERS; FIRE EXTINGUISHERS, WHETHER OR NOT CHARGED; SPRAY GUNS AND SIMILAR APPLIANCES; STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES
8424.10	- Fire extinguishers, whether or not charged
8424.20	- Spray guns and similar appliances
8424.30	- Steam or sand blasting machines and similar jet projecting machines
	- Other appliances :
842481	-- Agricultural or horticultural
8424 89	--- Other
8424.90	- Parts

Explanatory Notes

This Heading covers, machine and appliance for projecting, dispersing or spraying steam, liquids or solid materials (e.g. sand, powders, granules, grit or metallic abrasives) in the form of a jet, a dispersion (whether or not in drips) or a spray.

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(D) SYRINGES, SPRAYS AND POWDER DISTRIBUTORS

These are used for insecticides, fungicides etc. in agriculture, horticulture or the home. The heading includes such appliances with or without integral reservoirs, of the type operated by hand (including simple piston pump sprays) or by foot pedal, as well as powder bellows, knapsacks sprayers and transportable sprayers. The heading also includes mobile spraying machines in which the motor providing the power for pumping or spraying can also be geared to provide a limited movement of the apparatus for working purposes, but it does not include machines constituting true vehicles within the meaning of heading 87.05.

Provided they incorporate mechanical devices for producing or dispersing the spray or jet, or for automatically orientating the spray head (including simple mechanism activated by water pressure), the heading includes the following types of appliances, whether fixed, transportable or mobile:

(1) Sprinklers and sprays for lawn, orchards etc (e.g. rotary sprays and oscillating sprays)

10.6 As per the applicant's submission the said power sprayer is suitable to spray pesticides and insecticides for pest control in Guava, Grapes, Mango, Coconut, Banana, Papaya, Pomegranate and Chikku. The applicant during the personal hearing has also submitted that the impugned goods can be used in various places as per the requirements and does not have exclusive used in agriculture and horticulture only.

10.7 On going through the above details, we find that 'HTP kirloskar Power Sprayer' based on the use merits classifiable under HSN 8424 89 90.

10.8 To determine the applicable GST rate on the impugned goods, we will be required to refer to the Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 containing the sub-headings as well as the rates of Central Tax GST applicable to various goods, which are covered under 6 schedules, as under :

(i) 2.5 per cent. in respect of goods specified in Schedule-I,
(ii) 6 per cent. in respect of goods specified in Schedule-II,
(iii) 9 per cent. in respect of goods specified in Schedule-III,
(iv) 14 per cent. in respect of goods specified in Schedule-IV,
(v) 1.5 per cent. in respect of goods specified in Schedule-V, and
(vi) 0.125 per cent. in respect of goods specified in Schedule-VI

Further, Explanation (iii) and (iv) of the said Notification reads as under:

(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).

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(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.

10.9 We find that the applicant goods appears at Entry No. 325 in Schedule-III of the said notification, on which the applicable rate of GST is 18% (9% SGST + 9% CGST). The same reads as under:

S. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of goods
325.	8424	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines [other than fire extinguishers, whether or not charged]

10.10 Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 has been amended vide Notification No. 27/2017-Central Tax (Rate), dated 22-9-2017, wherein the following amendment has been made in respect of Entry No. 325 of Schedule-III of said notification :

"(ix) **in S. No. 325**, in column (3), for the words *" other than fire extinguishers, whether or not charged"*, the words, *"other than fire extinguishers, whether or not charged and Nozzles for drip irrigation equipment or nozzles for sprinklers"* shall be substituted;"

10.11 Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 has been further amended vide Notification No. 41/2017-Central Tax (Rate), dated 14-11-2017 wherein the following amendment has been made in respect of Entry No. 325 of Schedule-III of said notification :

"(lxxxii) in S. No. 325, for the entry in column (3), the entry *"Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines [other than Nozzles for drip irrigation equipment or nozzles for sprinklers]" shall be substituted;"*

10.12 Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 has been further amended vide Notification No. 6/2018-Central Tax (Rate), dated 24-1-2018 (effective

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from 25-1-2018) wherein the following amendment has been made in respect of Entry No. 325 of Schedule-III of said notification.

"(xi) in S. No. 325, for the entry in column (3), the entry "Mechanical appliances (whether or not hand-operated) for projecting, dispersing or **spraying liquids** or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines **[other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers]" shall be substituted;"**

10.13 Further, the following entry has been inserted vide Notification No. 6/2018-Central Tax (Rate), dated 24-1-2018 (effective from 25-1-2018) in Schedule-II of Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 which reads as under :

(xiii) after S. No. 195A, and entries relating thereto the following serial number and the entries shall be inserted, namely :

S. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of goods
195B	8424	Sprinklers; drip irrigation system including laterals; mechanical sprayers";

11. We find that, CBIC vide Circular No. 113/32/2019-GST has issued clarification on 'Applicable GST rate on Mechanical Sprayer'. The relevant para5 is reproduced as under :

5. Applicability GST Rate on Mechanical Sprayer

5.1 Representation have been received seeking clarification on the scope and applicable GST rate on "mechanical sprayers" of entry no. 195B of Schedule II to Notification No. 1/2017-CT (Rate) dated 28-6-17. The entry No. 195 B was inserted vide notification No. 6/2018-CT (Rate) dated 25-1-2018.

5.2 All goods of heading 8424 i.e.[Mechanical appliances (whether or not hand operated) for projecting , dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines(other than fire extinguishers, whether or not charged)] attracted GST @18% [Sr. No. 325 of Schedule III] till 25th Jan-2018. Subsequently, keeping in view various requests/ representations, the GST council in its 25th meeting recommended 12% GST on mechanical sprayer. Accordingly, vide amending notification No.6/2018- CT (Rate) dated 25th Jan, 2018 GST at the rate of 12% was prescribed (entry no. 195 B Schedule II of notification No. 1/2017-CT (Rate) dated 28-6-2017). Simultaneously, mechanical sprayers were excluded from the ambit of

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the said S. No. 325 of Schedule III.

5.3 Accordingly, it is clarified that the S. No. 195 B of the Schedule II to notification No.1/2017- Central Tax (Rate), dated 28.06.2017 covers "mechanical sprayers" of all types whether or not hand operated (like hand operated sprayer, power operated sprayers, battery operated sprayers, foot sprayer, rocker etc.)

11.1 We find that the CBIC has clarified that Mechanical Appliances whether or not hand operated for projecting, dispersing or spraying liquids attracted GST @18% [Sr. No. 325 of Schedule III]. The applicant goods are Mechanical Appliances which is used in dispersing and spraying the liquids in various fields as per the requirements.

12. It can therefore be concluded that the product 'HTP kirloskar Power Sprayer' merit classification under HSN 8424 89 90 and covered under Entry No. 325 of Schedule-III of Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 and attract GST tax rate 18% (9% SGST + 9% CGST).

14. We, hereby pass the Ruling:

RULING

1. The 8 digit HSN code of product 'HTP kirloskar Power Sprayer' is 8424 89 90.
2. GST Tax rate on goods viz. HTP kirloskar Power Sprayer' would be 18% {CGST @9%+SGST @9% and IGST @18%}

(MILIND KAVATKAR)
MEMBER (S)

(AMIT KUMAR MISHRA)
MEMBER (C)

GUJARAT AUTHORITY FOR ADVANCE RULING, GST, AHMEDABAD

Place: Ahmedabad

Date: 28 .09.2022

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