

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri B. V. Borhade, Joint Commissioner of State Tax (Member)

(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax (Member)

GSTIN Number, if any/ User-id		27AABCB571461ZX
Legal Name of Applicant		BHUTORIA REFRIGERATION PRIVATE LIMITED
Registered Address/Address provided while obtaining user id		340/2722 OPP. BANGUR NAGAR , MOTILAL NAGAR NO. 2, LINK ROAD, GOREGAON WEST , Maharashtra, MUMBAI, SUBURBAN - 400104
Details of application		GST-ARA, Application No. 64 Dated 06.08.2018
Concerned officer		Dy. Commr. of S.T.(E-501) Nodal division - 10, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Factory/Manufacturing , Wholesale Business
B	Description (in brief)	Bhutoria Refrigeration Private Limited took registration under GST Regime in order to carry on a business of supply of products such as Fan Coil Units, Valves, Actuator, thermostat, etc. to its various customers. The applicant supplies the Fan Coil Units along with its standard spare parts and accessories.
Issue/s on which advance ruling required		(i) Classification of goods and services or both.
Question(s) on which advance ruling is required		Below para 2

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by **Bhutoria Refrigeration Private Limited**, the applicant, seeking an advance ruling in respect of the following issue.

"Whether the Fan Coil Unit is covered under HSN Code 8418 under Goods and Service Tax Act, 2017."

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

A. STATEMENT OF FACTS HAVING A BEARING ON THE QUESTIONS RAISED

Brief Facts

The applicant took registration under GST Regime in order to carry on a business of supply of products such as Fan Coil Units, Valves, Actuator, thermostat, etc. to its various customers. The applicant is engaged in the business to supply the Fan Coil Units along with its standard spare parts and accessories.

A Fan Coil Unit (FCU) is a simple device consisting of a heating and/or cooling heat exchanger or 'coil' and fan. It consists of three basic components fan motor, heat exchanger and PCB which is connected with the valves to control

the flow of water as per the set temperature. FCU are used as the terminal units for centralised system for heat exchanging.

FCU consists of the following components:

Fan Motor and Fan Blower: Fan motor is used for rotating impeller of the fan blower at certain rpm to provide desired air volume for specific capacity of unit. Fan blower could be with plastic impeller or metal impeller depending on requirement. The Fan speed can be changed through PCB of unit.

Heat Exchanger: Heat exchangers are group of copper coils arranged in rows with aluminium fins, where copper tubes carry chilled water, which absorbs heat from air passed over it by fan motor.

PCB: PCB is the printed circuit board, also the brain of the Fan Coil Unit. It controls the fan speed and water flow depending upon logic as per set mode, set temperature, room temperature and in some cases also water temperature. There are different modes like cooling, dry, heat or fan mode depending upon the application of the unit.

Main Drain Pan: Main drain pan are used for collecting condensate water generated at the heat exchanger during process of cooling. This water is drain out through drain pan through drainage lines through gravity of drain or drain water is pumped out using condensate drain pump.

Filters: Filters are at the rear end of the fan coil units, through which air is sucked in by fan blowers. Filters are used to trap certain sizes of impure particles contained by the air to supply cleaner air in the cooling area.

Main Casing: Main casing is the body containing and protecting all the above components in one box.

FCU is used to freeze the water, supplied through pumps, to cool the area where the machine is installed. As per Goods and Service Tax Act, 2017 applicant is liable to pay GST at applicable rate upon the supplying of the aforesaid FCU to its customers.

STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAY BE, IN RESPECT OF QUESTION(S) ON WHICH ADVANCE RULING IS REQUIRED.

1. That the applicant is registered under GST primarily to pay GST on the outward supply of Refrigerating equipments/ parts such as Fan Coil Unit, Valves, Actuator, Thermostat, etc.
2. That the applicant is engaged to supply "Fan Coil Unit with standard spare parts and accessories"
3. That in the instant case, Fan Coil Unit (FCU) is a device consisting of three basic components fan motor, heat exchanger and PCB which is connected with the valves to control the flow of water as per the set temperature. FCU is used to freeze the water, supplied through pumps, to cool the area where the machine is installed.
4. That as per the General Rules of Interpretation to the First Schedule of Customs Tariff Act 1975, goods are to be classified according to the terms of the headings and any relative Section or Chapter Notes. The said Rules of Interpretation are applicable for the purpose of classification in GST laws also.
5. That as per Notification No. 1/2017 - Central Tax (Rate), in Schedule III, Entry No. 319A reads as follows: HSN 8418 - "Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps (other than air conditioning machines of heading 8415)"
6. That the applicant is relying on the decision of Supreme Court in the matter of Commissioner of Customs & Central Excise, Delhi V/s Carrier Aircon Ltd., wherein it is held that "Chillers" are refrigerating or freezing equipments as the basic function of the chillers is to chill the water or liquid. Accordingly, the refrigerating equipment shall fall under specific heading 8418.
7. That, in the sincere view of the applicant, the Fan Coil Unit is covered under HSN Code 8418 under Goods and Service Tax Act, 2017 and GST will be charged @18%.
8. That the applicant prays before Hon'ble Authority to pronounce the ruling, i.e. the appropriate HSN Code for the Chilled Water Fan Coil Unit in the instant case, based on the interpretation of law;
9. That the applicant craves leave to add / modify any of the above ground during the course of hearing

03. CONTENTION - AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

04. HEARING

The case was taken up for Preliminary hearing on 04.09.2018 when Shri Mahesh Bhattar, C.A., along with Ms. Nikita Mehta, C.A. appeared and made contentions for admission of application. Jurisdictional Officer Sh. Hemant Deokate, Dy. Commr, of S.T.(E-501) Nodal division - 10, Mumbai was appeared and stated that they will make submissions in due course.

The application was admitted and called for final hearing on 19.09.2018, Sh. Mahesh Bhattar, C.A., along with Ms. Nikita Mehta, C.A. and Sh. K. K. Saraf, Advisor and Sh. Manish

Banthia , Accounts head appeared and made oral and written contentions. Jurisdictional Officer was not present for final hearing.

05. OBSERVATIONS

We have gone through the facts of the case. The issue put before us is in respect of a future transaction which would be on the lines thus -

We find that the present application has been filed by the applicant with one main question which is as under:-

“Whether Fan Coil Unit is covered under HSN Code 8418 under Goods and Service Tax Act, 2017.”

We find that the applicant is in the business of supply of Fan Coil Units (FCU) along with its standard parts and accessories.

The applicant has stated that FCU consists of three basic components namely, fan motor, heat exchanger and PCB which is connected with valves to control the flow of water as per the set temperature. The applicant further states that FCU are used as Terminal units for centralized system of heat exchanging.

FCU consists of the following components:-

1. **Fan Motor and Fan Blower:** Fan motor is used for rotating impeller of the fan blower at certain rpm to provide desired air volume for specific capacity of unit. Fan blower could be with plastic impeller or metal impeller depending on requirement. The Fan speed can be changed through PCB of unit.
2. **Heat Exchanger:** Heat exchangers are group of copper coils arranged in rows with aluminium fins, where copper tubes carry chilled water, which absorbs heat from air passed over it by fan motor.
3. **PCB:** PCB is the printed circuit board, also the brain of the Fan Coil Unit. It controls the fan speed and water flow depending upon logic as per set mode, set temperature, room temperature and in some cases also water temperature. There are different modes like cooling, dry, heat or fan mode depending upon the application of the unit.
4. **Main Drain Pan:** Main drain pan are used for collecting condensate water generated at the heat exchanger during process of cooling. This water is drain out through drain pan through drainage lines through gravity of drain or drain water is pumped out using condensate drain pump.
5. **Filters:** Filters are at the rear end of the fan coil units, through which air is sucked in by fan blowers. Filters are used to trap certain sizes of impure particles contained by the air to supply cleaner air in the cooling area.



6. **Main Casing:** Main casing is the body containing and protecting all the above components in one box.

The applicant has stated that FCU is used to freeze the water supplied through pumps, to cool the area where machine is installed.

The applicant in their contentions are claiming that FCU would be classifiable as per Notification no.01/2017 CT (Rate) in Schedule-III, Entry No 319A which reads as under:-

"HSN 8418 - "Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps (other than air conditioning machines of heading 8415)"

In order to verify the sustainability of claims of the applicant about classifying FCU under HSN 8418, we first of all see as to what is a FCU, what is its use and whether it itself has independent existence and use and where it is actually used i.e whether in Air Conditioning or Refrigeration.

We find that Fan Coil Unit (FCU) is a simple device consisting of a heating and or cooling heat exchanger or 'Coil' and fan. It is a part of HVAC system found in residential, commercial and industrial buildings. A FCU is a diverse device sometimes using ductwork and is used to control the temperature in space where it is installed or serve multiple spaces. It is controlled either by a manual on/off switch or by a thermostat which controls the throughput of water to the heat exchanger using a control valve and/or the fan speed.

Due to their simplicity and flexibility, FCUs can be more economical to install than ducted 100% Fresh Air Systems (VAV) or Central Heating Systems with air handling units or chilled beams.

FCUs circulate hot or cold water through a coil in order to condition a space. The unit gets its hot or cold water from a central plant or mechanical room containing equipment for removing heat from the central building's closed loop. The equipment used can consist of machines used to remove heat such as chiller or a cooling tower and equipment for adding heat to the building's water such as boiler of a commercial water heater.

Thus from the above nature and use of FCU we now proceed to examine as to where they would be correctly classifiable under GST.

We first of all have a look at GST Tariff Heading 8418 under which, the applicant is claiming that their goods would fall. We find that Heading 8418 of the GST Tariff reads as under:-

8418 ----- Refrigerators, Freezers and other refrigerating or freezing equipment, electric or other: heat pumps other than air conditioning machines of heading 8415.

From the detailed discussions about the exact nature and its use as discussed above, it is very apparent that FCUs are not Refrigerators, Freezers and other refrigerating or freezing equipment and neither are heat pumps and therefore in no way they would fall under GST Tariff Heading 8418.

Now we proceed to verify if FCU has a specific Tariff Heading Entry in CTH or Customs Tariff Heading where they would be specifically and clearly covered. On detailed examination and verification we could not locate any specific Tariff Heading under GST where FCUs would be covered.

In view of this we are constrained to ascertain the classification of FCU as per their nature and equipment of which they are specific parts and without which the main equipment cannot be stated to have come into existence.

In view of this now we have a look at the GST Tariff Heading 8415 which reads as under:-
8415 ---- *Air Conditioning machines, comprising a motor driven fan and elements for changing the temperature and humidity, including these machines in which the humidity cannot be separately regulated.*

From the detailed discussions about the exact nature and as to of which equipment the FCU is a part, we find that FCUs would clearly be covered under GST Tariff Heading 85159000 as parts of Air Conditioning machines of Heading 8515.

The classification as above is further confirmed and reiterated by Section Note (2) of Chapter 84 under GST Tariff Heading which reads as under:-

Note (2) : Subject to Note 1 to this Section, Note 1 to Chapter 84 and to 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, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as 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.

Further we find that the plea of the applicant contending that their goods would be covered under 8418 on the basis of the Hon'ble Supreme Court's decision in 2006(7) TMI-Supreme Court of India in the case of CCE Delhi versus Carrier Aircon Ltd. is not sustainable in view of the facts that the goods 'chillers' as discussed in this judgement had the basic function of chilling the water and were thus held by the Hon'ble Supreme Court to fall in Heading 8418 for Refrigerators and Freezers.

But we find that the basic function of a FCU is conditioning the temperature of a place or space and not freezing or refrigerating and therefore FCU would appropriately be covered under CTH 8415 as per detailed discussions above.

05. In view of the extensive deliberations as held hereinabove, we pass an order as follows :

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 64/2018-19/B-

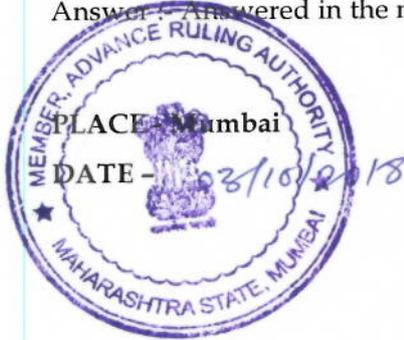
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Mumbai, dt. 03/10/2018

For reasons as discussed in the body of the order, the questions are answered thus -

Question 1:- Whether the Fan Coil Unit is covered under HSN Code 8418 under Goods and Service Tax Act, 2017.

Answer:- Answered in the negative. Fan Coil Unit would be covered under HSN Code 8415.



—sd—
B. V. BORHADE
(MEMBER)

—sd—
PANKAJ KUMAR
(MEMBER)
CERTIFIED TRUE COPY

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax
5. Joint commissioner of State tax , Mahavikas for Website.

MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai - 400021.