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2019 (23) G.S.T.L. 501 (A.A.R. - GST)BEFORE THE AUTHORITY FOR ADVANCE RULING UNDER GST, MAHARASHTRA
S/Shri B. Timothy, Member (Central Tax) and B.V. Borhade, Member (State Tax)**IN RE : PREMIUM TRANSMISSION PVT. LTD.**

Order No. GST-ARA-78/2018-19/B-167-Mumbai, dated 24-12-2018 in Application No. 78,

Motor - Electric Geared Motor - Combination of gear box and electric motor - Classification thereof - Said item is used in many industrial machineries/conveyers that require speed controlled motors - Under Customs Tariff there is no separate classification for said item although Gear Box and Electric Motor appear as separately classified products under Headings 8483 and 8501 of Customs Tariff Act, 1975 respectively - Relying on Section Notes 4 and 5 to Section XVI of HSN, exclusion note under Heading 8483 ibid and inclusion note under Heading 8501 ibid, said goods appropriately classifiable in the Heading 8501 of Customs Tariff Act, 1975. [para 5]

Ruling in favour of assessee

[Order]. - Proceedings : 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 M/s. Premium Transmission Private Limited, seeking an advance ruling in respect of the following question :-

(a) What is the correct classification of 'Geared Motor' supplied by the applicant?

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".

2. and 3. * * * * *

[See text of paras 2 and 3 of this order in GST Council website.]

4. Hearing :

The preliminary hearing in the matter was held on 27-11-2018, Sh. Nitin S. Shah, Advocate appeared and requested for admission of application as per contentions made in their application. Jurisdictional Officer was not present.

The application was admitted and called for final hearing on 12-12-2018. Sh. Nitin S. Shah, Advocate appeared, made oral and written submissions. Jurisdictional Officer Sh. Abhinav Chaubey, Inspector Division-I, (Malegaon), Pune-I Commissionerate appeared and made written submissions. The contention of both the parties were heard on this issue.

5. Observations :

We have gone through the facts of the case and written submissions made by both the applicant and the concerned officer. The issue put before us is determination of classification of "Geared Motor" which would be on the lines thus -

Applicant is engaged in manufacture, supply and export of various industrial products such as geared boxes, geared motors, fluid couplings, etc. With respect to the classification of products such as 'Electric Motor' or 'Gear box' under the HSN, the applicant does not find any difficulty since there is specific mention of the products under the said system. However, with respect to 'Geared Motor' a combination product manufactured, the applicant has requested that a ruling be pronounced on the correct classification as there is no specific heading under the HSN.

The product 'Geared Motors' is a combination of gear box and electric motors. Vide Notification No. 1/2017-C.T. (Rate), dated June 28, 2017, tariff rates have been notified for the purpose of levy and collection of GST which has classified goods into 4 digit codes as per HSN. In the said notification it has been specified that for the purpose of classification of goods, the section notes, chapter notes and the General Explanatory notes mentioned under Customs Tariff Act, 1975 would apply to classification of goods under the GST Act. Therefore the classification of the product is to be decided in terms of HSN. On perusal of the same, we find that the following two headings compete for the classification of 'Geared Motor' :-

- (i) 8483 - Gear Boxes and other speed changers, including torque converters'.

And

- (ii) 8501 - Electric motors and generators (excluding generating sets).

In view of this, we now refer to relevant Explanatory Notes, etc., to Section XVI, Explanatory notes to Headings 8483 and 8501 to find the appropriate classification for "geared motors", -

- (i) Section Notes 4 and 5 of HSN are relevant to this case which are reproduced below :

Note : 4

Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

Note : 5

For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85."

- (ii) Explanatory Note relevant for Motors at Note (I)(A) to Heading 8501 :

(I) **ELECTRIC MOTORS**

Electric motors are machines for transforming electrical energy into mechanical power. This group includes rotary motors and linear motors.

- (A) **Rotary motors** produce mechanical power in the form of a rotary motion. They are of many types and sizes according to whether they operate on DC or AC, and according to the use or purpose for which they are designed. The motor housing may be adapted to the circumstances in which the motor will operate (e.g., dust proof, drip proof or flame proof motors; non-rigid mountings for belt driven motors, or for motors which will be subject to much vibration).

Many motors may incorporate a fan or other device for keeping the motor cool during running

With the exception of starter motors for internal combustion engines (heading 85.11), the heading covers electric motors of all types from low power motors for use in instruments, clocks, time switches, sewing machines, toys, etc., up to large powerful motors for rolling mills, etc.

Motors remain classified here even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools."

(Page XVI- 8501-2)

- (iii) Further to the above, it is relevant to refer to the exclusion clause at the end of the Explanatory Note (E) to Heading 8483 which is reproduced as below (Page No. XVI-8483-(3) stated below :

(E) **GEAR BOXES AND OTHER SPEED CHANGERS, INCLUDING TORQUE CONVERTERS**

'The heading does not cover gear boxes or other variable speed changers combined with a motor; these are classified in the same heading as the motor.'

From the harmonious reading of Section Notes 4 and 5 to Section XVI and the inclusion Note in 8501 and the exclusion Note in Heading 8483 referred to above, the 'geared motors' being a combination of machines that is Electric Motors and Gear Box intended to contribute together a cleared defined function to run industrial machineries with speed controlling mechanism, the Geared Motor is appropriately classifiable in the Heading 8501.

However, the jurisdictional officer has different view. He submits that Geared Motor is a machine consisting of two individual components interconnected. His view is that electrical motors when attached to Gear Box will no longer remain an electrical motor but a geared motor with altogether a different function that is transmission of mechanical power and speed from one shaft to another. Though the contention of the jurisdictional officer appears convincing, in view of the exclusion note under Chapter Heading 8483 and inclusive note to 8501, it would be against the scheme of HSN to agree with the jurisdictional officer's view.

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

ORDER

7. For reasons as discussed in the body of the order, the question is answered thus -

Question :- What is the correct classification of 'Geared Motor' supplied by the applicant?

Answer :- "Geared Motors" supplied by the applicants fall under Tariff Heading 8501.