

<b>GUJARAT AUTHORITY FOR ADVANCE RULING,</b> GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADMISSION ORDER NO. GUJ/GAAR/ADM/2020/119  
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/31)

Date: 30.12.2020

Name and address of the applicant	:	M/s. Mohitkumar Mahendrabhai Patel (C/O Aster Industries), 263, Shubh Ind.Estate, Nr.Shubh Estate, Daskroi, Kathwada, Ahmedabad-382350.
GSTIN of the applicant	:	24CBBPP2521B1ZD
Date of application	:	04.05.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	<i>Not Mentioned in the Application</i>
Date of Personal Hearing	:	23.12.2020 (Through online Hearing)
Present for the applicant	:	Personal hearing through video conference.

### **BRIEF FACTS**

The applicant M/s. Mohitkumar Mahendrabhai Patel (C/O Aster Industries), 263, Shubh Ind.Estate, Nr.Shubh Estate, Daskroi, Kathwada, Ahmedabad-382350 has submitted that they are engaged in business of manufacturing and trading of excellent quality of Booster Pump in India. They have stated that Booster Pump 24/36V suited for water filter purifiers for Dolphin, Kent, Grand, P-Top, Compaq, Natural and many RO models can be used in any purifier Model – Counter Top, Desk Top, Stand Mounted, Wall Hanging, Under Sink in the name of ‘ASTER INDUSTRIES’ having factory and office located at 263, Shubh Ind.Estate, Nr.Shubh Estate, Daskroi, Kathwada, Ahmedabad-382350.

**2.** The applicant has submitted that they are manufacturing Water Pumps used in the Water Plant and RO Water purifier under the brand name of ‘Aster’ in the variant of 75GPD/100 GPD/150 GPD; that an RO booster pump is used when the normal water pressure feeding an RO system needs to be increased or boosted; that the efficiency of an RO booster pump depends on the incoming pressure of the feed water. The typical reverse osmosis system requires at least 50 psi feeding the system to function properly and if the water pressure is below 50 psi, the system will produce less water at a lower quality.

**3.** The applicant has further submitted that reverse osmosis systems usually operate under 40-60 psi of pressure and if the water pressure is lower

than this, you may need a booster pump; that even if the pressure does meet the requirements, a booster pump may still help you receive satisfactory water flow; that if the RO system is allowed to run with low pressure, the system will produce less water, not filter as thoroughly, fill the storage tank slowly and waste more water; that the benefits of an RO booster pump are more efficient RO system, high-quality water and less water wasted. The applicant has further stated that in the erstwhile Indirect Tax Regime, they were engaged in trading activity of same items i.e. water pumps and had been discharging applicable indirect taxes of supply of water pumps as trading activity under Gujarat VAT Act according with Entry 82 of Schedule-II of the Act; that with the introduction of GST, the applicant has analysed the classification and applicability of CGST and SGST in the light of the new legislation; that for classification it has been clarified in the rate notification of respective legislation that rule for interpretation of the first schedule to the Custom Tariff Act, 1975 including section notes and chapter notes and general explanatory notes of the said first schedule would be applicable for the classification under GST; that accordingly the applicant seeks to classify the water pump under HSN 8413 on the basis of the nature of their product applicable from 28.06.2017. The applicant has asked the following question seeking Advance Ruling on the same:

*“Whether Water pump as explained above would be classified under HSN 8413 or HSN 8421?”*

#### **DISCUSSION & FINDINGS:**

**4.** We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

**5.** At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 similar provisions of the GGST Act.

**6.** On going through the application filed by the applicant we find that the said application has not been filed in the prescribed format required as per the provisions of Section 97(1) of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017. We also find that the applicant has paid an amount of Rs.5,000/- only along with their aforementioned application. In this regard, we find it imperative to refer to Section 97(1) of the CGST Act, 2017 as well as Rule 104 of the CGST Rules, 2017 which read as under:

**Section 97.** (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

**Rule 104. Form and manner of application to the Authority for Advance Ruling.**

(1) An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in **FORM GST ARA-01** and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.

(2) The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26.

**7.** On going through the provisions of Section 97 of the CGST Act, 2017 and Rule 104 of the CGST Rules, 2017, we find that the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 (which is the prescribed format for the said application) and shall be accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the CGST Act, 2017. Similarly, as per Section 97 of the GGST Act, 2017 and Rule 104 of the GGST Rules, 2017, the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the GGST Act, 2017. On a combined reading of the provisions of the aforementioned Section 97 and Rule 104 of both the aforementioned Acts and Rules, we find that the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be accompanied by a fee of Ten thousand rupees (Five thousand rupees as per Rule 104 of the CGST Rules, 2017 + Five thousand rupees as per Rule 104 of the GGST Rules, 2017).

**8.** We, therefore, find that the applicant has neither filed the application in the prescribed format of GST-ARA-01 nor paid the required fees of Rs.10,000/- as required as per the provisions of aforementioned Sections and Rules. Therefore, the instant application is liable for rejection under Section 98(2) of the CGST Act, 2017 for not filing the application in proper FORM GST-ARA-01 and not paying the total fees of Rs.10,000/- i.e Rs.5,000/- under each head CGST & GGST as required under the provisions of CGST Act and Rules and respective GGST Act & Rules.

**9.** In view of the facts mentioned above, we do not find it necessary to delve into the details or facts of the issue in hand since the applicant has failed to comply even with the statutory requirements of the provisions of the relevant sections and rules of the CGST Act, 2017/GGST Act, 2017 as well as the CGST Rules, 2017/GGST Rules, 2017 with regard to filing the application of Advance

Ruling before the Advance Ruling Authority, thus rendering it an invalid application for Advance Ruling under Section 97(1) of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017.

**10.** In the light of the aforesaid circumstances, we rule as under:

**R U L I N G**

Instant application filed by M/s. Mohitkumar Mahendrabhai Patel (C/O Aster Industries), 263, Shubh Ind.Estate, Nr.Shubh Estate, Daskroi, Kathwada, Ahmedabad-382350 is hereby rejected under Section 98(2) of the CGST/GGST Act, 2017 being non-maintainable in view of the above discussion.

**(SANJAY SAXENA)**

**MEMBER**

Place: Ahmedabad

Date: 30.12.2020.

**(MOHIT AGRAWAL)**

**MEMBER**