TIMKEN

Mandar Vasmatkar
Company Secretary & Chief - Compliance
mandar.vasmatkar@timken.com

3 November, 2026

The National Stock Exchange of India Limited
Exchange Plaza, Plot No. C/1,
G-Block, Bandra- Kurla Complex,
Bandra (E), Mumbai- 400 051.

NSE Symbol - TIMKEN

BSE Limited
Phiroze Jeejeebhoy Towers,
Dalal Street, Fort, Mumbai- 400 001.

Scrip Code- 522113

Dear Sir/Madam,

Sub: Order passed by Office of the Commissioner (Appeals)-Update

Ref : our earlier intimation dated 30 October, 2024

Pursuant to Regulation 30 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, we hereby give an update on Order passed by Office of the Commissioner (Appeals), Central Goods and Service Tax & Central Excise, details of which are given below:

Name of the Authority passing order	Office of the Commissioner (Appeals), Central Goods and Service Tax & Central Excise.
Details of the violation(s)/contravention(s) alleged to be committed	Short payment of GST on royalty payment under Reverse Charge Mechanism (RCM).
Nature and details of the action(s) taken, initiated or order(s) passed	Office of Commissioner CGST and CEX Jamshedpur vide its order dated 21 October, 2024 has classified the royalty payment towards fee for technical services under SAC 9983 where the applicable GST rate is 18% under RCM as against our classification under SAC 9973 where the GST rate is 12% under RCM for the period 1st July 2017 to October 2021 and demanded additional GST of Rs. 8,19,15,057/- along with Interest and Penalty. We had filed appeal against said Order. Office

	of the Commissioner (Appeals) upheld the earlier order and rejected our appeal.
Date of receipt of direction or order, including any ad-interim or interim orders, or any other communication from the authority	2 November, 2026
Impact on financial, operation or other activities of the Company, quantifiable in monetary terms to the extent possible	The Company is of opinion that aforesaid order is not sustainable. The Company is taking necessary steps to file appeal before appropriate authority to get relief. The Company does not anticipate any immediate financial or monetary impact.
Reason for Delay	The Company received said order through email on 2 November, 2026 at 12:00 noon. The Company was evaluating impact and ascertaining materiality aspect. Hence, there is delay in submission.

You are requested to take note of the above.

Copy of the aforesaid order is attached herewith.

Yours faithfully,
For **TIMKEN INDIA LIMITED**

MANDAR MOHANIRAJ VASMATKAR

Digitally signed by MANDAR MOHANIRAJ VASMATKAR
Date: 2026.11.03 18:48:33 +05'30'

Mandar Vasmatkar
Company Secretary
& Chief - Compliance

सत्यमेव जयते

भारत सरकार

GOVERNMENT OF INDIA

आयुक्त (अपील)का कार्यालय

OFFICE OF THE COMMISSIONER (APPEALS)

केन्द्रीय वस्तु एवं सेवाकर तथा केन्द्रीय उत्पाद शुल्क,

Central Goods and Service Tax & Central Excise,

द्वितीय एवं तृतीय तल, ग्रैंड एमराल्ड, अशोक नगर, राँची - 834002

2nd & 3rd Floor, Grand Emerald Building, Ashok Nagar, Ranchi – 834002

C. No. CGST(A)-94-98/JSR/2024-25 **Date of order:30.10.2026**

Date of Communication:

Passed by: Dharmjeet Kumar , IRS

Commissioner (Appeals)

ORDER-IN-APPEAL No: 1389-1393 /JSR/2026

प्रस्तावना / **PREAMBLE**

1) This copy is granted free of charge for the private use of the person to whom it is issued.
यह प्रति संबन्धित व्यक्ति को निजी प्रयोग के लिए मुफ्त में दी जा रही है।

2) Under Section 112 (1) of the CGST Act, 2017 an appeal against this order can be filed to the Appellate Tribunal within 03 months along with relevant documents either electronically or otherwise as may be notified by the Registrar, in FORM GST-APL-05, on the common portal on payment of 20% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
इस आदेश के सम्प्रेषण अथवा अध्यक्ष वस्तु एवं सेवा कर अपीलीय अधिकरण के पदग्रहण (जो भी बाद में हो) के तीन माह के अंदर यदि इस आदेश के विरुद्ध अपील करना चाहते हैं तो रजिस्ट्रार द्वारा निर्धारित तकनिकी

अथवा अन्य रूप से केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा112(1)के तहत FORM GST-APL-05 में कॉमन पोर्टल पर मांग कि गयी राशी का20%जमा कर अपील दायर कर सकते हैं ।

3) A certified copy of the decision or order appealed against along with fees as specified in sub-rule (5) of Rule 110 shall be submitted to the Registrar within seven days of the filing of the appeal under sub-rule (1).
उप नियम (1) के तहत अपील दायर करने के सात दिनों के अंदर इस आदेश के प्रमाणित प्रति एवं नियम 110(5) के तहत निर्धारित शुल्क रजिस्ट्रार के समक्ष जमा करें ।

4) The fees for filing of appeal shall be one thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of rupees twenty-five thousand.
अपील दायर करने का शुल्क इस आदेश में मांग कि गयी राशी के प्रत्येक एक लाख रूपए पर एक हज़ार रूपए अथवा पचीस हज़ार रूपए में से जो भी अधिक हो निर्धारित है ।

These are 5 the appeals filed under section 107 of the Central Goods Service Tax Act, 2017 by M/s Timken India Limited, Bara, Jamshedpur, East Singhbhum, Jharkhand-831009 (GSTIN:20AABCT0596J1ZG) (hereinafter referred to as the TIL/appellant) against OIO No. 17/CGST/Joint Commissioner/2024 dated 21.10.2024 passed by Joint Commissioner of the CGST & C. EX, Jamshedpur. Details of year wise DRC-07s are as under –

(a) ZD2011240073372 dated 21.10.2024 (FY 2017-18 w.e.f 01.07.2017);
(b) ZD2011240073463 dated 21.10.2024 (FY 2018-19);
(c) ZD201124007352A dated 21.10.2024 (FY 2019-20);
(d) ZD2011240073546 dated 21.10.2024(FY 2020-21);
(e) ZD201124007360D dated 21.10.2024 (FY 2021-22 upto 31.10.2021).

2. Brief facts of the case are that on the basis of the intelligence gathered, DGGI, Surat Zonal unit issued DRC-01 under C.No. DGGI/SZU/36-86/2023-24, dated 29.12.2023 (hereinafter referred to "SCN") to M/s Timken India Pvt. Ltd., Bara, Jamshedpur, East Singhbhum, Jharkhand-831009 (GSTIN: 20AABCT0596J1ZG). It was alleged in the DRC-01 that the appellant have shown services availed in respect of "Royalty under SAC 9973 (Leasing or Rental Services with or without operator) and made payments of IGST @ 12% under RCM. However, the services received under "Royalty" should fall under SAC 9983 (other professional, technical and business services) in terms of Serial No. 21 to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 which attracts IGST @ 18% and thus have short paid GST amounting to Rs. 8,19,15,057/- (IGST) (Rupees Eight Crores Nineteen Lakhs Fifteen Thousand fifty-seven only) during the period July'17 to October'21. SCN proposed recovery of the same in terms of Section 74 of the CGST Act, 2017 read with Section 20 of the IGST Act. 2017 along with applicable interest under Section 50 of the CGST Act, 2017/ Jharkhand GST Act read with section 20 of the IGST Act. Penalty was also proposed under section 74 of the said Acts.

2.1 Adjudicating authority upon following the principles of natural justice, considering the submissions made by the appellant has confirmed the demand raised in the SCN.

3. Accordingly, adjudicating authority vide the impugned order determined as under-

(i) The service received by the noticee is classifiable under "Business and professional and Technical Services" under HSN 998396- Trademarks and franchises;

(ii) Confirmed the short-paid tax amounting to Rs. 8,19,15,057/-only and ordered for its recovery under section 74(1) of the CGST Act, 2017 read with section 20 of the IGST Act;

(iii) Confirmed the recovery of interest under section 50 of the CGST Act, 2017 read with section 20 of the IGST Act;

(iv) Imposed penalty of Rs. 8,19,15,057/- under section 74(1) of the CGST Act, 2017 read with section 20 of the IGST Act, 2017.

4. Being aggrieved, the appellant filed the present appeal in FORM GST APL-01 dated 28.01.2025 against impugned order dated 21.10.2024 inter alia, on the following grounds:

(i) That on the facts and in the circumstances of the case, the impugned Order number GEXCOM /ADJN /GST /ADC /257/ 2024/2230 dated 21 October 2024 bearing DIN 20241060XX000000F8D passed by the Joint Commissioner is liable to be set aside as it is contrary to the facts on record, passed without proper consideration of submissions.

(ii) That the order is passed by the Joint Commissioner stating that the services taken by TIL from Timken, USA on consideration should be classified as 'Franchisee Service' and not 'Intellectual Property Right' on the basis of the findings of Hon'ble CESTAT,

Kolkata in the matter of ***M/s. Timken India Ltd. v. Commissioner of Central Excise, Jamshedpur, 2019 (22) G.S.T.L. 282 (Tri. - Kolkata)*** which has been reproduced below for your reference:

"*A plain reading of the above contract makes it clear that the agreement between the appellant and the Timken (USA) is not limited to use Timken's Intellectual Property i.e., proprietary technical information, knowhow, etc for manufacture of products and for service of the main products as is defined in the intellectual property service. Rather the various terms of the contract as given above indicate that the appellant has to represent the Timken (USA) to their various customers in such a way that the appellant looses its own individual identity and would perhaps be known only by the identity of Timken (USA).*"

(iii) The allegation raised by the Joint Commissioner classifying the services received by the appellant under SAC 9983 merely on the ground that the said services qualify as 'Franchise Services', is vague and without any application of mind especially when both SAC 9973 and SAC 9983 pertain to Franchise Service. The Joint Commissioner ought to have made clear allegations as to how the services received by the Appellant are classifiable under SAC 9983 and not under SAC 9973.

(iv) Ld. JC has completely failed to appreciate the fact that the Royalty payment is towards permitting the use of Intellectual Property Rights (IPR) provided to us by our Group Company and that the Company has correctly paid GST 12% under RCM for the period July, 2017 to September, 2021 which was squarely covered under Sl. No. 17(1) of Notification No. 8/2017-Integrated Tax (Rate) dated 28th June 2017 having description "Temporary or permanent transfer or permitting the use or enjoyment of

Intellectual Property (IP) right in respect of goods other than Information Technology software".

(v) The Company entered into licensing agreements with Timken, USA for obtaining non-transferable, non-sublicensable and non-exclusive license to the technology and trademarks for purpose of manufacturing of goods. The said licensing agreements were entered into on 6th April, 2011 and was renewed on 22nd September, 2020. As per the said agreement, the Company is liable to pay royalty to the licensor and has discharged Goods and Services Tax ('GST') liability on the same under the category of Intellectual Property Rights (IPR) Service under reverse charge mechanism ('RCM").

(vi) That the aforesaid entry in Sl. No. 17(i) got deleted vide Notification No. 6/2021-Integrated Tax (Rate) dated 30th September, 2021 and Sl. No. 17(ii) was amended with description "Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right". Thus, irrespective of whether such IPR is in respect of goods or for IT software, the same is subject to GST rate of 18% only w.e.f. 1st October, 2021 under Sl. No. 17(ii). We therefore as a bonafide assessee, due to such change in rate started making payment of GST @ 18% w.e.f. 1st October, 2021 on such royalty paid towards the licensing agreement.

(vii) For TIL to constitute a franchise, it would have to satisfy the requirements of Section 65(47) of the Act, which inter alia requires that the franchisee should have been granted representational right by franchisor. On perusal of the agreement, merely because, by an agreement, a right is conferred on a party to sell or manufacture goods or provide services or undertake a process, would not *ipso facto* bring the agreement

within the ambit of a franchise. What is also required is to establish that the right conferred is a "representational right". The term "representational right" would necessarily qualify all the three possibilities ie., (i) to sell or manufacture goods, (ii) to provide service, and (iii) undertake any process identified with the franchisor.

(viii) A representational right would mean that a right is available with the franchisee to represent the franchisor. When the Franchisee represents the franchisor, for all practical purposes, the franchisee loses its individual identity and would be known by the identity of the franchisor The individual identity of the franchisee is subsumed in the identity of the franchisor. In the case of a franchise, anyone dealing with the franchisee would get an impression as if he were dealing with the franchisor.

(ix) However, in the impugned case, on perusal of the agreement, there is nothing in the agreement which indicates that TIL has lost its individual identity and is representing the identity of the franchisor to the outside world. The arrangement is clearly a case of a licensing transaction and is in no way similar to a 'franchisee agreement as understood in the commercial world. In a 'franchisee agreement, the franchisor owns IPR and allows the franchisee to set up and run the business in the name of the franchisor. Further, in a franchisee agreement, the franchisor has the authority to exert a significant degree of control over the method of operation of the franchisee. The agreement executed between TIL and Timken, USA clearly shows that the licensor does not have any significant control over the manner in which TIL conducts its operation. TIL is free to procure the raw materials as per its will and it has a right to fix the selling price of the final product. It is also free to run its business, marketing,

distribution, sourcing and other activities as per its own choice without any inference by the licensors. It also makes its own marketing strategy. The only right which the licensor have is to supervise whether the products manufactured by TIL are in conformity with the quality, since the brand name of the licensor is being used by TIL. This singular right under the agreement will not constitute any control. Therefore, we most humbly submit that the arrangement between the TIL and Timken USA will not constitute a franchisee agreement since Timken USA does not have any significant control over the operations of the TIL. In this regards appellant have placed reliance on the following judgement:

(a) ***Rackitt Benckiser (India) Ltd. Vs Commr. of C. Ex. & S.T, Panchkula [2021(46) G.S.T.L 41(Tri. Chan.)***

(b) ***Delhi International Airport P. Ltd. Vs Union of India [2017(50) S.T.R 275(Del.)***]

(x) The Ld. JC has highlighted certain key features of the Agreement entered into between the Appellant and Timken, USA in order to conclude that the services received by the Appellant are actually franchise services. These features of the Agreement have merely been reproduced from the finding of the Hon'ble CESTAT, Kolkata in the matter of M/s. Timken India Ltd. v. Commissioner of Central Excise, Jamshedpur, 2019 (22) G.S.T.L. 282 (Tri. - Kolkata). In this regard, it is submitted that the CESTAT decision was in a different context and pertained to 'Technology License and Technical Assistance Agreement dated 10.09.1998 which was not in existence during the relevant period. The Ld. Additional Director without appreciating the facts has merely assumed that the Agreement dated 10.09.1998 is applicable till date. It is submitted that the terms of the Agreement dated

10.09.1998 are different from the relevant Agreements which were in force during the relevant period. The features of the Agreement dated 10.09.1998 and the Agreement which was in force during the relevant period are distinguished as tabulated hereunder:

Features of the 'Technology License and Technical Assistance Agreement dated 10.09.1998	**Features of the 'Technology and Trademark License Agreement dated 22.09.2020**
The personnel of Timken, USA provide the TIL with certain technical assistance (assistance, guidance, demonstrations, training etc.) in order to assist the manufacture and sale of the products. *(Article 1, Clause G)*	There is no technical assistance provided by Timken, USA. The TIL operates independently.
The products manufactured by the TIL ought to be exported solely basis the directions issued by Timken, USA. *(Article II, Clause B)*	There is no such restriction. Rather, the TIL is responsible for independently entering into any contract for the purposes of sale of products. *(Article 3 Section 3.1 and 3. 2)*
The TIL procures machines/equipment from third parties in terms of the process specifications set out by Timken, USA. *(Article III, Clause C)*	There are no such process specifications set out by Timken, USA.
Timken, USA designates their representatives to inspect the quality of the products manufactured by the TIL. Such designated representatives have the right of final authority to reject the products which do not conform to the quality standards. *(Article IX, Clause C)*	**Timken, USA does not** designate any of their representatives. Also, Timken, USA and their personal do not have any right to reject the products manufactured by the TIL, even if the said products do not conform to the quality standards. *(Article 2. Section 2.4)*

(xi) From the above distinguishing factors, it is evident that the features of the Agreement dated 10.09.1998 are considerably different from that of the relevant Agreements which were in force during the relevant period. Further, the Ld. JC has alleged that the appellant has no right to enter independently into any contract for manufacture of material for his customers.

(xii) In terms of the article 3 of the Agreement as presented below, TIL are responsible for independently entering into any contract for manufacture of any material for his customers. This shows that the TIL has the right to act independently and are not controlled by Timken, USA. Accordingly, the features of the Agreement as highlighted by the Ld. JC are completely irrelevant. Hence, the entire reasoning on which the impugned order which has been issued is incorrect.

"ARTICLE 3: LICENSEE'S RESPONSIBILITIES

Section 3.1 Licensee, together with its affiliates, shall be responsible for determining the terms, conditions and limitations in respect of the manufacturing, marketing and distribution of manufactured Products in the Territory.

Section 3.2 Licensee shall use commercially reasonable efforts to manufacture, market, distribute and sell manufactured Products within the Territory. Licensee shall conduct its business in a lawful manner that will reflect favourably on Licensor and the Products and shall not engage in any deceptive, misleading, illegal or unethical business practice".

(xiii) A bare perusal of SAC 997336 read with the Explanatory Notes, provides that it *inter alia* includes licensing services, to grant the license to use trademarks and to operate franchises. It is to submit that the subject services received by the appellant are license/Right to use Trademark and Technology owned by Timken, USA.

(xiv) From a reading of above clauses, it is evident that the TIL are granted with a License/Right to use the Trademarks and Technology owned by Timken, USA and thus the said service is rightly classifiable under SAC 997336. Even if the allegation of

the Ld. JC that the services are in nature of "Franchise Service' are to be accepted for sake of argument, it is submitted that the TIL are merely receiving the License to operate / use the franchise which also falls within the scope of "SAC 997336- Licensing services for the right to use trademarks and franchises".

(xv) It is therefore submitted that the classification adopted by the appellant is correct and accordingly, IGST is liable to be discharged @ 12% in terms of Sl. No. 17(i) of IGST Rate notification.

(xvi) The SAC 998396 covers ***original trademarks and franchises*** produced on own account with the intent of deriving benefits from allowing others to use these trademarks and franchises and **specifically excludes licensing services for the right to use trademarks and franchises covered under SAC 997336.**

(xvii) It is evident that the subject services received by the Appellant in instant case cannot be classified under SAC 998396 inasmuch as Timken, USA is not developing Technology or creating Trademarks solely for the purpose of selling / assigning them to the Appellant. Timken, USA is the owner of the relevant Trademarks and Technology and also uses the same for their own purposes. A mere license has been granted to the Appellant to use the said Trademarks and Technology. Therefore, the subject services are not classifiable under SAC 998396 and consequentially IGST is not payable at the rate of 18% in terms of Sl. No 21(ii) of the IGST Rate Notification.

(xviii) It is further submitted that the distinction drawn by the Ld. JC between 'licensing services' and 'franchising services' and the attempt to categorize the subject services to be in nature of 'franchising services' is irrelevant for the purpose of

classification of subject services under the GST regime. It is submitted that the distinction between 'licensing services" and 'franchising services" was relevant in the Service Tax regime since there was a sperate levy of cess on 'franchising services'. However, in the GST regime, there is no such separate treatment and both SAC 9973 and SAC 9983 covers Franchise. It is therefore submitted that the distinction drawn between 'licensing services" and "franchising services' is irrelevant. Accordingly, it is submitted that the reasonings adopted by the Ld. JC is factually incorrect and the consequential allegations that the services received by the Appellant are in the nature of 'Franchise services' is also incorrect. Therefore, it is requested to drop and/or set aside the said proceedings in the nature of justice.

(xix) Extended period of limitation under section 74 of the CGST Act, 2017 cannot be invoked in the present case as the entire matter is **revenue neutral**, The Appellant reiterate that they had classified the subject services under SAC 997336 and discharged IGST at the rate of 12%. In respect of the IGST paid of @ 12%, the Appellant were entirely eligible to claim input tax credit. Even if the Appellant had discharged IGST at the rate of 18% by classifying the subject services under SAC 998396, the Appellant would have been eligible to claim entire input tax credit of the said IGST paid. Hence, there is no loss of revenue to the Government in either of the said cases and therefore, the entire transaction is revenue neutral. In such cases, intention to evade payment of tax cannot be attributed to the Appellant inasmuch as they did not stand to gain anything by classifying the subject services under SAC 997336 and discharged IGST at the rate of 12%.

(xx) The position that the entire transaction in the instant case is revenue neutral is bolstered by the Circular No. 210/5/2024-GST dated 26.06.2024.

(xxi) Reliance in this regard is placed on the decision of the Hon'ble Tribunal in ***V.E. Commercial Vehicles Ltd. v. Commr. of C. Ex. & S. Tax, Indore 2018 (15) G.S.T.L. 291 (Tri-Del)*** wherein the demand of differential excise duty was set aside along with interest and penalty on the ground that if such duty had been paid by the assessee, the same would be available as rebate, leading to a revenue neutral situation, and therefore, there is no justification for the demand of duty. The decision of the Hon'ble Tribunal has been affirmed by the Hon'ble Supreme Court of India in **2019 (27) G.S.T.L. J96 (S.C.) & 2019 (31) G.S.T.L. J96 (S.C.)**.

(xxii) Issue related to interpretation of law and the Appellant were under a bona fide belief that the classification adopted by them was correct. It cannot be equated with wilful suppression of facts with an intention to evade payment of tax. Ld. JC has erred in invoking section 74(1) of the CGST Act, 2017. As a corollary, the demand proposed for the extended period of limitation i.e for the period July, 2017 to March, 2018 deserves to be dropped.

(xxiii) Imposition of interest is harsh and not sustainable.

(xxiv) Imposition of penalty under section 74(1) of the CGST Act, 2017 is not sustainable.

5. The appellant has paid Rs.81,91,509/- as pre-deposit needed under Section of 107(6)(b) of the CGST Act, 2017.

6. The instant appeal was filed online on 28.01.2025 in Form APL-01. The date of communication of impugned order dated 21.10.2024 in Form GST APL-01 is mentioned as 29.10.2024. Hence, the appellant has filed the appeal well within three months from the date of communication of the impugned order, as stipulated under the statute.

7. Considering the principles of natural justice, opportunity of personal hearing was granted on 24.08.2026. Mr. Syed Peeran, Advocate, Ms. Abhilasha Bajraria, Consultant & Mr. Anish Kumar (Timken) & the authorized representative appeared and submitted that company has correctly classified the service as licensing service and paid tax @12%; that the decision of CESTAT, Kolkata in their own case is distinguishable. They have requested to allow the appeal.

7.1 After personal hearing, they submitted the following additional documents:

(i) Copy of impugned OIO

(ii) Technology License Agreement dated 06.04.2011 and the amendment agreement dated 03.12.2014

(iii) Trademark License Agreement dated 06.04.2011 and the amendment agreement dated 03.12.2024

(iv) Technology and Trademark License Agreement dated 22.09.2020

(v) Sample copy of invoice raised by Timken, USA on the appellants towards supply of IPR services

(vi) Statement of Shri KN Bopanna recorded on 21.07.2023

(vii) SCN No. DGGI/SZU/36-86/2023-24 dated 29.12.2023

(viii) Reply dated 01.02.2024 filed in response to the show cause Notice dated 29.12.2023

(ix) Additional Submissions dated 04.10.2024 filed in response to the SCN dated 29.12.2023

(x) Legal provisions related to Section 7 of the CGST Act,2017, Schedules I, II and III of the CGST Act, 2017

(xi) Copy of Notification No. 8/2017-IGST (Rate) dated 28.06.2017

(xii) Explanatory Notes to SAC 9973, SAC 9983 and extract of the relevant SACs

(xiii) Rackitt Benckiser (I) Ltd. Vs Commr. of C.Ex & ST, Panchkula, 2021 [46(G.S.T.L. 41 (Tri. – Chan.]

(xiv) M/s Yum Restaurants (India) Pvt. Ltd., Advance Ruling No. HAR/HAAR/R/2018-19/24

8. I have carefully gone through the facts of the case, the grounds of appeal, the submissions made during personal hearing, the additional written submissions and documents furnished by the appellant, the impugned Order-in-Original and the records available before me. The issues arising for determination in the present appeal are as follows:

(A) Whether the services received by the appellant is classifiable under "Business Professional and Technical Services" under HSN 998396-Trademarks and franchises or under "SAC 997336-Licensing services for the right to use trademarks and franchises"*?*

(B) Whether the demand of short-paid tax amounting to Rs. 8,19,15,057/-(IGST) under section 74(1) of the CGST Act read with section 20 of the IGST Act, 2017 is sustainable?

(C) Whether the imposition of interest under section 50 of the CGST Act read with section 20 of the IGST Act, 2017 is justified?

(D) Whether imposition of penalty under section 74(1) of the CGST Act read with section 20 of the IGST Act, 2017 is sustainable?

9. Let me discuss the issues one by one.

10. I find that the issue under dispute is the correct classification of the services received by the appellant from the Timken Company, USA, under

the technology and trademark licensing arrangements. The appellant have contended that the consideration paid by them represents royalty for the use of intellectual property and that the services are covered by SAC 997336 under Heading 9973 and have properly discharged their tax liability @ 12%, there is no short payment of tax.

11. Classification of a service under GST is required to be determined by examining the substantive nature of the supply, the rights and obligations arising from the agreement, the activities covered by the arrangement and the relevant entries in the applicable classification scheme and rate notification. The nomenclature adopted by the parties in an agreement or invoice cannot, by itself, be conclusive of the correct classification.

12. To verify the nature of services received by the appellant, scope of the agreements needed to be examined first. I find that adjudicating authority in para 4.1.2, 4.1.3 and 4.1.4 has discussed the scope of the Trademark License Agreement dated 06.04.2011 and Technology License Agreement dated 06.04.2011 with M/s TIMKEN, USA which further renewed for successive five years periods, unless otherwise agreed in writing between the Licensee and Licensor quoted as below:

"*The first agreement is the "**Trademark License Agreement**" which grants the Licensee a non-transferable, non-sublicensable and non-exclusive right to use such of the trademarks as Licensor, in its sole discretion, believes necessary and effective for the licensee to mark the products, and distribute and service the products in the territory. Further the licensee is restricted and is not allowed to give, sell, assign, sublicense, make available or otherwise transfer or disclose any right to use the Trademarks or purport or attempt to do any of the foregoing. without the prior, express written consent of the Licensor. The licensee is bound to meet the quality control standards and specifications established from time to time by the Licensor, including any requirements of applicable regulatory*

agencies. In consideration of the license granted through this agreement, the licensee shall pay to the licensor a fee equal to one percent of net sales."

*" The second agreement is a "**Technology License Agreement**" which grants the right to use technology. Through this agreement the Licensor grants a non-transferable, non-sublicensable and non-exclusive right to use, develop and enjoy such of the Technology as Licensor, in its sole discretion, believes necessary and effective for Licensee to produce, distribute and service the products in the territory. The Licensor shall provide Licensee with technical and technological assistance reasonably necessary for the use of the Technology in the production of the Products. Thus, through this agreement the licensor i.e. M/s. Timken USA has granted the right to the licensee i.e. the noticee to use its technology, and produce, distribute and service the products in the territory. They are also bound to adhere to the quality control standards and specifications established from time to time by the Licensor, including any requirements of applicable regulatory agencies. The above rights have been granted in lieu of a consideration."*

and the third agreement dated 22.09.2020 entered by the appellant i.e the "***Technology and Trademark License Agreement***" which incorporates the clauses of the above two agreements wherein the licensor i.e. M/s. Timken USA has granted the right to the licensee i.e, the appellant to use its technology and trademarks for the purpose of manufacturing, marketing and distributing its products within the territory. They are also bound to adhere to the quality control standards and specifications established from time to time by the Licensor, including any requirements of applicable regulatory agencies. The above rights have been granted in lieu of a consideration.

13. While deciding the nature of the services, the adjudicating authority has also relied upon decision of Hon'ble CESTAT, Kolkata, in the matter of ***M/s Timken India Ltd Vs Commissioner of Central Excise, Jamshedpur***

[2019(22-G.S.T.L 282 (Tri.-Cal) dated 24.10.2018] wherein the tribunal has held that: -

"A plain reading of the above contract makes it clear that the agreement between the appellant and the Timken (USA) is not limited to use Timken's Intellectual Property i.e. proprietary technical information, knowhow etc. for manufacture of products and for service of the main products as is defined in the intellectual property service. Rather the various terms of the contract as given above indicate that the appellant has to represent the Timken (USA) to their various customers in such a way that the appellant looses its own individual identity and would perhaps be known only by the identity of Timken (USA)".

Which has been upheld by the Hon'ble Supreme Court in the appellant's own case reported under ***2019(30) G.S.T.L. J95(SC) dated 19.08.2019*** wherein the Hon'ble SC has held that

"that the consideration paid to foreign holding company for granting technology license and technical assistance for manufacture of products is liable to Service Tax under Reverse Charge Mechanism under Franchise service and not under Intellectual Property Right service inasmuch as agreement was not limited only to use of proprietary technical information, know-how of such foreign holding company but assessee also represented the said holding company to customers and lost its individual identity."

Placing reliance on the above judgement, adjudicating authority classified the services received by the appellant as "Franchisee Service" and not "Intellectual property Right" service as claimed by the appellant.

14. Appellant have contended that the above cited decision is related to the Technology License and Technical Assistance Agreement dated 10.09.1998 entered into by the appellant with Timken USA for the period 1998 to 2011. Appellant have distinguished the agreement dated 10.09.1998 with the other agreement entered by them as mentioned below:

Features of the 'Technology License and Technical Assistance Agreement dated 10.09.1998	**Features of the 'Technology and Trademark License Agreement dated 22.09.2020**
The personnel of Timken, USA provide the TIL with certain technical assistance (assistance, guidance, demonstrations, training etc.) in order to assist the manufacture and sale of the products. *(Article 1, Clause G)*	There is no technical assistance provided by Timken, USA. The TIL operates independently.
The products manufactured by the TIL ought to be exported solely basis the directions issued by Timken, USA. *(Article II, Clause B)*	There is no such restriction. Rather, the TIL is responsible for independently entering into any contract for the purposes of sale of products. *(Article 3. Section 3.1 and 3 .2)*
The TIL procures machines/equipment from third parties in terms of the process specifications set out by Timken, USA. *(Article III, Clause C)*	There are no such process specifications set out by Timken, USA.
Timken, USA designates their representatives to inspect the quality of the products manufactured by the TIL. Such designated representatives have the right of final authority to reject the products which do not conform to the quality standards.	**Timken, USA does not** designate any of their representatives. Also, Timken, USA and their personal do not have any right to reject the products manufactured by the TIL, even if the said products do not conform to the quality

(Article IX, Clause C)	standards. *(Article 2. Section 2.4)*

Appellant have cited the reason which distinguishes the agreement dated 10.09.1998 with the other agreements and have also cited the Articles of agreement dated 10.09.1998 in support of their arguments but have failed to produce the copy of the agreement to verify the claim of the appellant.

In the absence of documentary evidence, I agree with the classification done by the adjudicating authority that the services received by the appellant is franchise services and not IPR (Intellectual Property Right) service.

15. In commercial parlance, franchising is a specialized form of licensing. While a standard license agreement typically grants the right to use intellectual property (like a patent or trademark) to manufacture a product, a franchise agreement grants a comprehensive right to use an entire business model, including its trademarks and service standards. I find article 3.2 of the agreement dated 22.09.2020 cited by the appellant needed to be discussed and the same is reproduced below:

> *Section 3.2 Licensee shall use commercially reasonable efforts to manufacture, market, distribute and sell manufactured Products within the Territory. Licensee shall conduct its business in a lawful manner that will reflect favourably on Licensor and the Products and shall not engage in any deceptive, misleading, illegal or unethical business practice*".

From the above clause, it can be inferred that the services received by the appellant resembles Franchise Model in terms of the following parameter:

(a) **Brand Protection**: The requirement to "conduct business in a lawful manner that will reflect favourably on Licensor" is the core of any franchise agreement. In a franchise, the brand's reputation is entirely dependent on the behaviour of its franchisees.

(b) **Standards of Conduct**: The ban on "deceptive, misleading, illegal or unethical business practice" is standard boilerplate language used to protect the franchisor from vicarious liability and brand damage.

(c) **Commercial Effort**: The mandate to use "commercially reasonable efforts to market, distribute, and sell" ensures that the franchisee actively works to generate revenue, which directly impacts the franchisor's royalties.

16. Appellant have contended that if the services are in nature of "Franchise Service' are to be accepted for sake of argument, then also TIL are merely receiving the License to operate / use the franchise which also falls within the scope of "SAC 997336-Licensing services for the right to use trademarks and franchises".

17. In this regard, let me discuss the classification mentioned under SAC 9973 as well as under 9983 along with the explanatory notes:

99733-Licensing services for the right to use intellectual property and similar products.

This group includes permitting, granting or otherwise authorizing the use of intellectual property products and similar products.

997336-Licensing services for the right to use trademarks and franchises.

This service code includes licensing services for the right to use trademarks and to operate franchises.

9983- Other professional, technical and business services (except research, development, legal and accounting services).

99839- Other professional, technical and business services.

998396 - Trademarks and franchises.

This service code includes original trademarks and franchises, i.e. the legally registered ownership of a certain brand name. Note: These products are produced on own account with the intent of deriving benefits from allowing others to use these trademarks or franchises.

From the perusal of the above explanatory notes, it can be ascertained that the services received by the appellant should fall under SAC 998396. As per notification No. 11/2017-CT (rate) dated 28.06.2017 tax rate is mentioned as 9% on SAC 9983 at Sl. No. 21. Thus, I agree with the findings of the adjudicating authority the services received by the appellant should fall under SAC 998396 and they attract GST @ 18%. Thus, the appellant has short paid tax to the tune of Rs. 8,19,15,057/-. ***I uphold the demand confirmed by the adjudicating authority.***

18. Appellant have also contested that the extended period of limitation under section 74 of the CGST Act, 2017 cannot be invoked in the present case as the entire matter is revenue neutral. I find that appellant was knowing that the classification of services was decided by the Hon'ble CESTAT, Kolkata which was later affirmed by Hon'ble Supreme Court, they misclassified the services received by them and paid the tax at a lower tax rate. In the situation of any doubt about classification the appellant could have approached the jurisdictional Division office for seeking clarification on classification issue. But instead of getting any clarification, they decided to adopt the wrong classification with an intent to evade tax. Adjudicating authority has rightly invoked extended period of limitation and imposed penalty under section 74 of the Act.

19. Interest under Section 50 is consequential to the relevant tax liability and is governed by the applicable statutory provisions. Where differential tax is found to have remained unpaid and the statutory conditions for levy of interest are satisfied, interest is payable in accordance with law.

20. Having regard to the above, 5 appeals filed by M/s Timken India Limited Bara, Jamshedpur, East Singhbhum, Jharkhand-831009 (GSTIN:20AABCT0596J1ZG against OIO No. 17/CGST/Joint Commissioner/2024 dated 21.10.2024 passed by Joint Commissioner of the CGST&CX, Jamshedpur is hereby rejected;

Ordered accordingly.

Digitally signed by Dharmjeet Kumar
Date: 30-10-2026 17:25:42

(Dharmjeet Kumar)
Commissioner

To,
M/s Timken India Limited
Bara, Jamshedpur,
East Singhbhum, Jharkhand-831009

Copy to:-

1. The Pr. Commissioner/Commissioner, CGST & Central Excise, Jamshedpur.
2. The Commissioner, Commercial Taxes, Utpad Bhavan, New Police Line, Indira Nagar Colony, Jharkhand, Ranchi.
3. The Additional /Joint Commissioner, CGST & CX, Jamshedpur
4. Guard File/ Notice Board