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आह्वान बना अभियान, विश्व रिकार्ड में रायगढ़ का नाम दर्ज

छः घंटे में साढ़े चौदह लाख मास्क का किया गया वितरण



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श्री कृष्ण जन्माष्टमी की बधाईयाँ

जय श्री कृष्ण

कृष्ण मित्र भी हैं, गुरु भी हैं। कृष्ण मुक्तिदाता भी हैं और कृष्ण परमात्मा भी हैं।

अर्जुन के मन को चोट न पहुंचे इसलिए मित्र की भाषा में बात करते हैं। धीरे-धीरे उस मित्र की भाषा में गुरु का संदेश भी डाल देते हैं। जैसे-जैसे अर्जुन के ज्ञान चक्षु खुलते जाते हैं, वैसे वैसे कृष्ण गुरु होते जाते हैं। जैसे ही अर्जुन संकुचित होता है, भयभीत होता है, वैसे वैसे कृष्ण मित्र हो जाते हैं। जैसे-जैसे अर्जुन की ग्राह्यता बढ़ती जाती है, कृष्ण भी उठते जाते हैं, उस उच्चतर तक जहां वे परमात्मा हैं।

पाराशर मुनि द्वारा 6 ऐश्वर्य भगवान के वर्णित किए गए हैं। कोई भी व्यक्ति संपत्ति, शक्ति, यश, सौंदर्य, ज्ञान एवं त्याग के कारण आकर्षक बनता है।

श्री कृष्ण में यह सब समाहित हैं। मानव इतिहास में कृष्ण के समान इन सब गुणों से युक्त अनासक्त व्यक्ति ढूंढना कठिन है। पांच प्रकार के मूल प्रेम रस हैं। कृष्ण से परम अज्ञात के रूप में, परम स्वामी के रूप में, परम मित्र के रूप में, परम शिशु के रूप में, परम प्रेमी के रूप में, प्रेम किया जा सकता है। श्री कृष्ण मुक्ति प्रदान करने वाले हैं। कंस जैसे असुरों को सायुज्य मुक्ति दी गई है। गोपियों को संगति का अवसर मिला जिससे वे श्रीकृष्ण की निराकार ब्रह्म ज्योति में विलीन हो गई। अर्थात् असुर और गोपियां दोनों की आध्यात्मिक मुक्ति हो गई।

अपने अनंत ज्ञान, अनंत शक्तियों, अनंत बल, अनंत प्रभाव, अनंत सौंदर्य तथा अनंत त्याग के कारण श्री कृष्ण परम ब्रह्म हैं।

श्री कृष्ण जन्मोत्सव की हार्दिक बधाई।

प्रस्तुति - राघवेंद्र दुबे

से.नि. अपर आयुक्त वाणिज्यिक कर एवं

से.नि. लेखापाल सदस्य, म.प्र. वाणिज्यिक कर अपील बोर्ड

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* **AAR-AP - Composite supply of works contract** - The value of materials recovered on cost recovery basis by the Contractee from the R.A. bills issued by the applicant is includible in the taxable value of supply in terms of Section 15(2)(b) of the CGST Act, 2017. **GVS Projects Pvt. Ltd. [30-1-2019] (AAR-AP) 91**

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* **AAR-AP - Electricity Distribution Agency** - The exemption is not available to the third parties or contractors engaged by the applicant; but it applies for the services done by electricity distribution agency only. **Southern Power Distribution Company of AP Ltd. [8-7-2019] (AAR-AP) 97**

* **AAR-AP - Extraction of Timber/ Bamboo in natural Forests** - Fall under entry 35 of the Heading 9997 (SAC Code) and taxable @ 9% CGST + 9% SGST. **Malleli Venkateswara Rao [9-7-2019] (AAR-AP) 99**

* **AAR-AP - Flavoured milk** - The HS code for flavoured milk is 2202 9930 and the GST rate is 12%. **Sri Chakra Milk Products LLP. [15-7-2019] (AAR-AP); Tirumala Milk Products Pvt. Ltd. [15-7-2019] (AAR-AP) 99**

* **AAR-AP - Goods Transport Agency** - As per the lorry receipts issued by the applicant, he is rendering GTA services and his tax liability under GST law is as detailed in the para 6.8. **Balasubramanyam Saravana Perumal, Prop: Chitra Transport [8-7-2019] (AAR-AP) 97**

* **AAR-AP - Input Tax Credit** - Works contract - ITC eligible on GST paid on goods and services used as inputs in execution of “Works Contracts”. **KSR & Company [14-2-2019] (AAR-AP) 93**

* **AAR-AP - Licensing services for the right to use minerals including its exploration and evaluation** - The applicant is receiving leasing / licensing services from the government of Andhra Pradesh. Hence, provisions of reverse charge mechanism are applicable. **PKR Projects and Engineers [16-7-2019] (AAR-AP) 99**

* **AAR-AP - Liquidated Damages** - GST on Liquidated Damages, and other penalties is covered under Schedule II entry No. 5(2)(e) vide HSN code 9997 – Other services. **Rashtriya Ispat Nigam [11-1-2019] (AAR-AP) 89**

* **AAR-AP - Services supplied by Electricity Distribution Utilities** - Sl. No. 10A of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017

- The services supplied by Electricity Distribution Utilities attract nil rate of tax
- Whereas, the said entry do not prescribe any nil rate for the services supplied to the Electricity Distribution Utilities. **Shirdi Sai Electricals Ltd. [30-1-2019] (AAR-AP)** 92

* **AAR-AP - Solar PV Power Project** - Classified under heading 9954 and the applicable rate of tax is 18%. **McNally Bharat Engineering Co. Ltd. [27-5-2019] (AAR-AP)** 96

* **AAR-AP - Tobacco leaves** - Procured at tobacco auction platforms or directly from farmers, which are cured and dried by farmers themselves and under different conditions. **K.S. Subbaih Pillai & Co. (India) Pvt. Ltd. [11-3-2019] (AAR-AP)**; **Alliance One Industries India Pvt. Ltd. [29-4-2019] (AAR-AP)**; **M.L. Agro Products Pvt. Ltd. [26-3-2019] (AAR-AP)**; **M.L. Tobacco Developers Pvt. Ltd. [26-3-2019] (AAR-AP)**; **Maddi Lakshmaiah and Co. Pvt. Ltd. [26-3-2019] (AAR-AP)**; **Michailides ML Oriental Tobacco Pvt. Ltd. [26-3-2019] (AAR-AP)**; **ML Exports [26-3-2019] (AAR-AP)**; **Polisetty Somasundaram Tobacco Threshers Pvt. Ltd. [26-3-2019] (AAR-AP)**; **Polisetty Somasundaram [26-3-2019] (AAR-AP)**; **VST Industries Ltd. [26-4-2019] (AAR-AP)** 93

* **AAR-AP - Works contract** - Composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017 - Applicant is not entitled for the benefit of concessional rate of GST @ 12%. **Vijai Electricals Limited [19-12-2018] (AAR-AP)** 89

* **AAR-Goa - Scope of Supply** - Is an obligation to refrain from an Act, or to tolerate an Act or a situation treated as supply of Goods/Services - Qualify as 'Supply' would attract tax liability. **Goa Industrial Development Corporation [17-10-2019] (AAR-Goa)** 100

* **AAR-Har - Supply of electricity** - The supply of electricity, to the extent it is grid supplied, is goods. **Keysight Technologies International India Pvt. Ltd. [9-9-2019] (AAR-Har)** 100

* **AAAR-HP - E-way bill** - Section 122 of CGST Act, 2017 - E-way bill is required in cases other than supply also. **Neva Plantation Pvt. Ltd. Vs. ACST&E-cum-Proper Officer, Palampur (AAAR-HP)** 154

* **AAAR-HP - Penalty** - Section 129 of CGST Act, 2017 - E-way bill - Transpotation of goods for repair without the cover of proper documents (e way bill is one of them) - Penalty u/s 122(1) can not be imposed more than Rs. 10,000/- . **Neva Plantation Pvt. Ltd. Vs. ACST&E-cum-Proper Officer, Palampur (AAAR-HP)** 154

* **AAAR-HP - Penalty** - Section 129 of CGST Act, 2017 - Circular No. 64/38/2018 dated 14-9-2018 - In case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, pro-

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ceedings under section 129 of the CGST Act may not be initiated in case of minor mistakes like error in one or two digits/characters of the vehicle number - Penalty imposed in the instant case under Section 129 was unwarranted. **K.B Enterprises Vs. The Assistant Commissioner State Taxes & Excise, Chamba H.P. (AAAR-HP)** 140

* **AAR-HP - Advance Ruling - Academic interest - The applicant is neither supplier nor he proposes to undertake supply, therefore the application for advance ruling is not admitted. Bakson Drugs & Pharmaceuticals Pvt. Ltd. [20-11-2019] (AAR-HP)** 101

* **AAR-HP - Protein Powder with Vitamins and Minerals - Classified under HS code 3004. Newtramax Healthcare [15-11-2019] (AAR-HP)** 101

* **AAR-Kar - Advance Ruling - Place of Supply - Section 97 of the CGST Act, 2017 does not empower the Authority to give Ruling on the Place of Supply of Goods or Services. PAREXEL International Clinical Research Pvt. Ltd. [30-9-2019] (AAR-Kar)** 102

* **AAR-Kar - Advance Ruling - The question proposed in relation to the service/ s being received by applicant beyond the jurisdiction of this authority. Barbeque Nation Hospitality Ltd. [9-1-2020] (AAR-Kar)** 104

* **AAR-Kar - Data centre facilities - The activity of setting-up of the data centre facilities as explained would qualify as 'works contract' as per Section 2(119). Hewlett Packard Enterprise India Pvt. Ltd. [30-9-2019] (AAR-Kar)** 101

* **AAR-Kar - Development and sale of land - Amount to supply of service and is liable to be taxed under GST. Maarq Spaces Pvt. Ltd. [30-9-2019] (AAR-Kar)** 101

* **AAR-Kar - Fabrication of body - The activity of fabrication of body building on Tippers, Trailers etc., merits classification under SAC 998881. SLN Tech-Fabs (Bengaluru) Pvt. Ltd. [7-1-2020] (AAR-Kar)** 104

* **AAR-Kar - RRC/PRC models - GST on the machines given to the customers under RRC/PRC models - The applicant is liable to pay GST on the machines / equipments given to the customers under the PRC Model but is not liable to pay GST on the machines / equipments given to the Customers under the RRC model. Randox Laboratories India Pvt. Ltd. [30-9-2019] (AAR-Kar)** 102

* **AAR-Kar - Solar Power Generating System - For the period up to 31-12-2018 the EPC contract is required to be considered as a works contract and has to be taxed accordingly. Solarys Non-Conventional Energy Pvt. Ltd. [30-9-2019] (AAR-Kar)** 103

- * **AAR-Ker - Agricultural implements** - Spout, cup holder and latex collection cup are agricultural implements exclusively used for rubber tapping come under the classification HSN 8201 90 00. **Geo Thomas & Company [21-6-2019] (AAR-Ker) 108**
- * **AAR-Ker - Baked Chips** - Baked Chips are come under HSN 2008 19 40 and taxable at 12%. **P.M. Sankaran [21-6-2019] (AAR-Ker) 109**
- * **AAR-Ker - Bakery products** - Cooked packed foods - The facility provided by the applicant to customers to have the food items consumed at the premises does not qualify the applicant to be categorized as a restaurant service provider. **Square One Homemade Treats [30-9-2019] (AAR-Ker) 117**
- * **AAR-Ker - Bentonite powder** - Mixture of Bentonite powder used for earthing purpose is liable to GST at the rate of 18%. **Excel Earthings [12-10-2019] (AAR-Ker) 122**
- * **AAR-Ker - Cervical pillows** - Fall under HSN 9404 10 00 and is taxable at the rate of 18%. **Dynamic Techno Medicals Pvt. Ltd. [21-6-2019] (AAR-Ker) 108**
- * **AAR-Ker - Civil works contract** - The concessional rate is not applicable for the works contract services provided as per the work order as Kerala State Electricity Board Ltd. has been established for carrying out the business of generation, transmission and distribution of electricity in the State of Kerala on commercial principles. **R.S. Development & Constructions India Pvt. Ltd. [12-10-2019] (AAR-Ker) 123**
- * **AAR-Ker - Confectionery products** - Peanut candy and Gingelly candy are taxable at the rate 5%. **P.M. Sankaran [21-6-2019] (AAR-Ker) 109**
- * **AAR-Ker - Discount / rebate** - The applicant is liable to pay GST on the amount received as reimbursement of discount / rebate from the principal company. **Santhosh Distributors [16-9-2019] (AAR-Ker) 115**
- * **AAR-Ker - Disposable underpads** - Classified under HSN 9619 and taxable @ 12%. **Dobersun Products [21-6-2019] (AAR-Ker) 108**
- * **AAR-Ker - Job works** - Rate of tax under GST applicable to the professional / job works charges - Manufacturing services on physical inputs (goods) owned by others taxable @ 18%. **Industrial Engineering Corporation [16-9-2019] (AAR-Ker) 113**
- * **AAR-Ker - Namkeen** - Achappam, Kuzhalappam, Madakku, Pottiappam, Thatta / Thattavada and Murakku are taxable at the rate of 12%. **P.M. Sankaran [21-6-2019] (AAR-Ker) 109**
- * **AAR-Ker - PVC Tufted Coir Mats and Matting** - Classifiable under Heading 5703 90 90 and attracts GST at the rate of 12%. **Natural Fibre Tuft**

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* AAR-Ker - Repair Rate Contract - Where a supply involves both goods and services and the value are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately and can not be treated as composite supply. Vista Marine and Hydraulics [16-9-2019] (AAR-Ker)		116
* AAR-Ker - Traditional sweet/snack of Kerala - Uniappam, Neyyappam, Kinnathappam, Kalathappam, Rice Ball (ariyunda) and Avil Vilayichathu are taxable at the rate of 5%. P.M. Sankaran [21-6-2019] (AAR-Ker)		109
* AAR-Ker - Trisonic Wind Tunnel - Design, fabrication, procurement, integration and control and commissioning of Trisonic Wind Tunnel with Ejector System is considered as works contract. Vikram Sarabhai Space Centre [12-4-2019] (AAR-Ker)		107
* AAR-Ker - Works contract - The work of design, realisation, integration and commissioning of 1.2m Trisonic Wind Tunnel as a turnkey project will fall under the definition of works contract. Tata Projects Ltd.[15-10-2019] (AAR-Ker)		124
* AAR-Ker - Health care services - Composite Supply to in-patients - Naturally bundled and are provided in conjunction and eligible for exemption. Baby Memorial Hospital Ltd. [5-9-2019] (AAR-Ker)		110
* AAR-Ker - Health care services - Composite Supply to out-patients - Taxable supply of goods and thereby GST is applicable. Baby Memorial Hospital Ltd. [5-9-2019] (AAR-Ker)		110
* AAR-Ker - Incidental services - Services by way of diagnosis come under the category of health care services covered under SAC 9993 in connection with health care services provided by a clinical establishment and are, therefore, exempted. Baby Memorial Hospital Ltd. [5-9-2019] (AAR-Ker)		110
* AAR-Ker - Quality testing and certification of gold ornaments - Covered under SAC 998346 and the rate of GST applicable to 998346 is 18%. CGR Gold Trading [16-9-2019] (AAR-Ker)		111
* AAR-Pun - Parking lot services - The parking services provided by the Contractor appointed by the Market Committee, are not exempt under as the Market Committee is not a Government Authority. Pushpa Rani Pabbi [6-9-2019] (AAR-Punjab)		125
* AAR-Pun - Works Contract - The works contract services as a sub-contractor in respect of construction contract by the NHA of India attracts GST @ 12%. S.P. Singla Constructions [6-9-2019] (AAR-Punjab)		126

- * **AAR-Raj - Advance Ruling** - The issue raised by the applicant is no more in existence - No ruling is required. **Wonder Cement Limited [10-10-2019] (AAR-Raj)** 127
- * **AAR-Raj - Ancillary Services** - The 'Ancillary Services' provided by the applicant to various tour operators taxable @ 18%. **Crown Tours and Travels [26-11-2019] (AAR-Raj)** 127
- * **AAR-Raj - Entry Fees** - The rate of GST on fee collected for entry into Subhash Udhyan (Municipal Park), ticket charges for Toy Train and for Pedal Boat facility is @ 18%. **Chandmal Narayandas Consortium [24-10-2019] (AAR-Raj)** 127
- * **AAR-Raj - Fortified Rice Kernels** - Fortified Rice Kernels (FRK) is classifiable under HSN 19049090 and attracts GST @ 18%. **JVS Foods Pvt. Ltd. [28-11-2019] (AAR-Raj)** 127
- * **AAR-Raj - Input tax credit** - ITC is not available for construction of an immovable property even when such goods or services or both are used in course or furtherance of business. **Indag Rubber Limited [21-10-2019] (AAR-Raj)** 127
- * **AAR-Raj - Labour contract** - The services of pure labour contract supplied for a civil structure or any other original works under PMAY is exempted from GST. **Sevk Ram Sahu (M/s. S.R.S. Enterprises) [18-12-2019] (AAR-Raj)** 128
- * **AAR-Raj - Manpower services** - Exemption available to 'supply of farm labour' services falling under Chapter heading 9986 - Supply of manpower services falling under SAC 99851 is not exempted from GST. **Manju Devi, (M/s. M.D. Enterprises) [18-12-2019] (AAR-Raj)** 128
- * **AAR-Raj - Registration** - The question relating to requirement of GST registration in another State is beyond the jurisdiction of Advance Ruling authority. **T & D Electricals [3-10-2019] (AAR-Raj)** 126
- * **AAR-TN - Closed PPIs**- issued through Third Party PPI issuers - Covered in 'vouchers' and treated as supply of goods. **Kalyan Jewellers India Ltd. [25-11-2019] (AAR-TN)** 130
- * **AAR-TN - GST Rates for Flour Mixture of Grams, pulses, leguminous vegetable with cereal flour/Rice flour.** **Chellasamy Nadar Deivarajan (M/s. Mahalakshmi Store) [23-12-2019] (AAR-TN)** 131
- * **AAR-TN - Health care services** - Composite supply of consumables to inpatient by hospital is exempted from CGST and SGST. **CMC Vellore Association [25-11-2019] (AAR-TN)** 130
- * **AAR-TN - Input Tax Credit** - No ITC is available against any goods or services received for construction of the Marriage Hall on his own account.

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* AAR-TN - K Juice Grape - The product is not classifiable as 'Aerated Waters' under CTH 22021010 and is classifiable under CTH '22021090- Other' as it contains the Grape fruit juice with added natural and artificial flavours. Kalis Sparkling Water Pvt. Ltd. [17-10-2019] (AAR-TN)		129
* AAR-TN - Mixed supply - Duty credit scrip - As per Section 8 of the ACT, the rate of tax on mixed supply which is billed at a single price is the rate of the highest rate of the services supplied which is 18%. RB Shah Enterprises India Pvt. Ltd. [25-11-2019] (AAR-TN)		131
* AAR-TN - NFC Board - NFC Board manufactured by the applicant with main content as Rice husk, will more appropriately be classified under CTH 441193. Papaka Herbs & Spices [23-12-2019] (AAR-TN)		132
* AAR-TN - TDS provision - The Government of Tamil Nadu does not control the applicant, therefore, the applicant is not a person or category of person stipulated under Notification No. 33/2017-C.T. dated 15-9-2017. Tamil Nadu Coop. Silk Producers Federation Ltd., Ind 944 [22-10-2019] (AAR-TN)		129
* AAR-TN - Works Contract - Trisonic Wind Tunnel - The supply under the contract cannot be considered as supply of equipment eligible for concession. TATA Projects Limited [15-10-2019] (AAR-TN)		128
* AAR-Uttara - Advance Ruling - The question raised in the application is pending with SGST Authorities - Application rejected. G.B. Pant University of Agriculture and Technology [18-10-2019] (AAR-Uttara)		134
* AAR-Uttara - Refund of inverted duty structure - When a requisite notification has been issued under a particular section, the provisions of said section spring into operation and an assessee, who is covered by the provisions of that section, is entitled to seek benefits there under. Uttranchal Filament (India) [12-6-2019] (AAR-Uttara)		133
* AAR-Uttara - Rubber Pad - Rubber Pad falls Under Chapter 4016 taxable @ 18%. V.K. Enterprises [10-12-2019] (AAR-Uttara)		134
* AAR-WB - Baked food preparations made of flour and contain chicken - Classified under HSN 1601, provided they contain more than 20% by weight of meat. Switz Foods Pvt. Ltd. [9-12-2019] (AAR-WB)		136
* AAR-WB - Bonus - The Applicant is liable to pay GST on the portion of the payment received on account of the bonus paid or payable to the persons it deploys as security personnel. Ex-servicemen Resettlement Society [29-11-2019] (AAR-WB)		135
* AAR-WB - Contract involving several services - Printing service (SAC 998912) and intermediary service for selling space for advertisement on		

behalf of the club (SAC 998362) - It shall be treated as supply of the above intermediary service taxable @ 18%. **Infobase Services Pvt. Ltd. [24-12-2019] (AAR-WB)** 136

* **AAR-WB - Foreign going vessels** - Supply of stores to foreign going vessels is not export or zero-rated supply, unless it is marked specifically for a location outside India. **Shewratan Company (Post rectified) [11-11-2019] (AAR-WB)** 135

* **AAR-WB - Fusible interlining cloth** - Classifiable under Heading 5903 in Chapter 59 - Ruling upheld by Appellate Authority. **Sadguru Seva Paridhan Pvt. Ltd. [11-11-2019] (AAR-WB)** 134

* **AAR-WB - Leasing of goods transport vehicles without operators to GTA** - The service is classifiable under SAC 997311 as leasing or rental services concerning transport equipment without operator - It amounts to the transfer of the right to use the goods and taxable. **Ishan Resins & Paints Limited [17-1-2020] (AAR-WB)** 139

* **AAR-WB - Non-edible intermediary product for confectionery industry** - Supply of a mixture and dough of wheat flour, sugar and water, cut into specific shape, which is dried and hardened by heating classifiable under tariff item 1901 20 00. **Ambo Agritec Pvt. Ltd. [24-12-2019] (AAR-WB)** 136

* **AAR-WB - Service of crushing food grains** - The Applicant's supply can be related to distribution through PDS and its supply to the State Government should be exempt provided the proportion of the packing materials in the composite supply in value terms does not exceed 25%. **Sakshi Jhajharia [10-2-2020] (AAR-WB)** 139

* **AAR-WB - Supply of goods through PDS is not exempt** - The Applicant is liable to pay GST. **Dipeet Agarwal [11-11-2019] (AAR-WB)** 134

* **Refund** - Explanation (a) to Rule 89(5) which denies the refund of "un-utilised input tax" paid on "input services" as part of "input tax credit" accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act, 2017. **VKC Footsteps India Pvt. Ltd. Vs. Union of India (Guj)** 174

* **Refund** - Section 54 of the Delhi Goods and Services Tax Act, 2017 - Zero rated supply - Refund not made within stipulated period - The High Court directed the respondent to pay to the petitioner the refund along with interest. **Jian International Vs. Commissioner of Delhi Goods And Services Tax (Del)** 171

(10) जीएसटी को लेकर अब सरकार को क्या करना चाहिए

- सीए. सुधीर हालाखंडी

1 जुलाई 2020 को जीएसटी को हमारे देश में आये हुए अब 3 वर्ष से अधिक का समय हो चुका है तो आइए एक बार देख लें सरलीकरण के लिए भारत में लाये गए सबसे बड़े कर सुधार की स्थिति इस समय क्या है और इस समय सरकार को क्या करना चाहिए कि जीएसटी भारत के उद्योग एवं व्यापार की उन उम्मीदों पर खरा उतर सके जिसकी उन्होंने तब उम्मीद की थी जब इसे लगाया गया था।



क्या जीएसटी सफल है ?

सबसे पहले देखें कि इन तीन वर्षों की अवधि में जीएसटी सफल रहा या असफल तो हम कह सकते हैं कि जीएसटी भारत में पूरी तरह से असफल तो नहीं है लेकिन इसका दूसरा अर्थ यह नहीं है कि यह पूरी तरह से सफल है। जीएसटी असलियत में सफलता और असफलता के बीच अटका हुआ है लेकिन सफलता का हिस्सा आप आधे से अधिक नहीं मान सकते हैं।

तो क्या हम उम्मीद छोड़ दें

इस सबसे आप उम्मीद नहीं छोड़ सकते क्योंकि जीएसटी एक लम्बी योजना का हिस्सा था और इसे अप्रत्यक्ष करों के सरलीकरण के लिए लाया गया था और भारत की अर्थव्यवस्था के विकास में इस कर को बहुत बड़ी भागदारी निभानी थी इसलिए अभी हमें इन्तजार करना चाहिए कि जीएसटी आने वाले समय में अपने उद्देश्यों और इससे की गई उम्मीदों को जरूर पूरा करेगा।

जीएसटी की इन प्रारम्भिक परेशानियों का कारण क्या है ?

जीएसटी में जो प्रारम्भिक परेशानियाँ हुई हैं उनका भी एक बड़ा कारण है और वह है कि सरकार ने एक अच्छा कानून बना कर भारत में जीएसटी लागू कर जो राजनैतिक इच्छाशक्ति का परिचय दिया था उसके बाद जीएसटी को लागू करने का काम जिन लोगों को सौंपा गया उन्हें इस सम्बन्ध में कोई व्यवहारिक अनुभव नहीं था और वे बिना सोचे समझे प्रक्रियाओं को सख्त से सख्त बनाते गए और इन्हीं सख्त प्रक्रियाओं ने जीएसटी को उलझा कर रख दिया है और इसी कारण इस समय जीएसटी को हम सरल नहीं कह सकते।

एक दूसरा कारण यह था कि जीएसटी की सफलता के लिए एक अच्छा सिस्टम नेटवर्क चाहिए था लेकिन जीएसटी का जो नेटवर्क है वो पूरी तरह से इस पर खरा नहीं उतरा और जीएसटी के प्रारम्भ से ही यह नेटवर्क अपनी ओर से डीलर्स को परेशानियाँ देता रहा और डीलर्स इसका दंड भुगतते रहे।

अब हमारे कानून निर्माता क्या करें !!!

अब हम आगे देखेंगे कि अब सरकार क्या करे कि सबसे पहले तो करदाताओं को राहत मिले और दूसरा जीएसटी अपनी सफलता की रह पकड़ सके। सबसे पहले तो सरकार और विभाग डीलर्स पर विश्वास की नीति पर चले और उन्हें कठिन प्रक्रियाओं की जगह एक सरल विधि उपलब्ध कराये ताकि जीएसटी अपने आप में सरल हो सके और जीएसटी सरल होगा तो इसका पालन करना भी आसान होगा तो अपने आप सरकार का राजस्व भी बढ़ेगा।

डीलर्स को तकनीकी भूलों के सुधार का मौका दें :

जीएसटी की प्रक्रियाएं प्रारम्भ से ही कठिन हैं तो डीलर्स ने इसमें तकनीकी गलतियां भी बहुत की हैं और इन गलतियों के कारण अब जब कर निर्धारण होंगे तो उन्हें भारी कर और पेनल्टी का भी भुगतान करना होगा तो इस समय सरकार को यह चाहिए कि वह डीलर्स को एक मौका दे कि वे अपनी इन सभी गलतियों का स्पष्टीकरण दे सके जिनमें ना तो कोई कर की चोरी हुई है और ना ही डीलर की ऐसी कोई मंशा जाहिर होती है तो उन्हें इसका सुधार करने का अवसर दिया जाना चाहिए। ये सारी गलतियाँ इसीलिये हुई है क्यों कि जीएसटी के एक महत्वपूर्ण रिटर्न जीएसटीआर-3बी में सुधार की कोई सुविधा नहीं दी गई थी। इसके साथ ही अब इस रिटर्न जीएसटीआर-3बी में कम से कम अब तो सुधार की प्रक्रिया प्रारम्भ कर दें। जीएसटी लाया गया है कर एकत्रीकरण के लिए और मान लीजिये कर की चोरी रुकने के लिए लेकिन एक तो यह नया कानून था और दूसरा इसकी प्रक्रियाएं इतनी सख्त बनाई गई कि डीलर्स से तकनीकी भूलें बहुत अधिक हुई हैं और फिर भूल सुधार की सुविधा के अभाव में वे ठीक भी नहीं हो पाई। एक नए कानून में इस तरह की भूलें स्वाभाविक हैं इसलिए इस समय की सबसे बड़ी जरूरत है कि उन्हें सुधार का मौका दिया जाए और इसके लिये सबसे उपयुक्त विधि यह होगी कि जिस भी डीलर से यह गलतियां हुई हैं उन्हें ही एक मौका दिया जाए कि वे उन्हें घोषित कर दें और यदि ऐसी गलतियों में कोई कर की चोरी नहीं है तो फिर सिस्टम पर ही उन्हें ठीक करने का मौका दिया जाए।

मिस्मेच के निस्तारण के लिए 90 दिन का समय दें :

इनपुट क्रेडिट का मिस्मेच भी डीलर्स के लिए एक समस्या बन गया है क्योंकि एक बार तो डीलर अपने विक्रेता को कर देता है और दूसरी बार सरकार के मिस्मेच के कड़े नियमों के कारण उसे एक बार और कर यदि देना पड़े तो उसके लिए यह कार्यशील पूंजी का संकट खड़ा हो जाएगा। इसके लिए सरकार कम से कम 90 दिन का समय डीलर्स को देना चाहिए ताकि वे अपने विक्रेता से बात कर इस समस्या का हल करवा सके। इस समय तो यह प्रावधान कोरोना के कारण स्थगित है लेकिन जब यह फिर से लागू होगा तो यह एक बड़ी समस्या बन जाएगा।

डीलर्स को धारा 16(4) के प्रावधानों से छूट दें :

इस समय सरकार ने उन डीलर्स को जो किसी कारणवश अपना रिटर्न नहीं भर पाए उन्हें बहुत ही कम पेनल्टी पर रिटर्न भरने की सुविधा दी है ताकि वे अपना कर भी जमा करा सके लेकिन ऐसे डीलर्स को जीएसटी कानून की एक धारा 16(4) के कारण प्रारम्भ के दो वर्षों की इनपुट क्रेडिट नहीं मिलेगी तो ऐसे में उनके लिए यह छूट व्यर्थ है इसलिए फिलहाल सरकार को उन्हें इस प्रावधान से भी छूट देनी चाहिए।

ब्याज को लेकर समस्याओं को हल करें :

कर पर ब्याज को लेकर भी जीएसटी के कानून में बहुत सी गलतियां और भ्रांतियां हैं जिन्हें दूर किया जाना आवश्यक है। जैसे कर पर ब्याज लगाने की व्यवस्था जिसके अनुसार ब्याज तब तक लगता रहता है जब तक कि डीलर अपने रिटर्न में इसे समायोजित नहीं कर दे भले ही डीलर ने इसे पहले ही चुका दिया हो। इसके अतिरिक्त ब्याज की दर बहुत अधिक है जबकि बैंकों में लगातार ब्याज की दर घट रही है तो ऐसे में 18 प्रतिशत या 24 प्रतिशत ब्याज की दर जो जीएसटी में लागू है उसके औचित्य के बारे में सरकार को विचार करना चाहिए। सकल कर पर ब्याज के मामले पर जीएसटी कौंसिल काफी समय पहले फैसला कर चुकी है कि इसे शुद्ध कर पर लगना चाहिए लेकिन यह फैसला भी अभी तक अटका हुआ है तो सरकार को जीएसटी कौंसिल के फैसले भी समय पर लागू करने की नीति बनानी होगी वरना जीएसटी कौंसिल का महत्त्व ही समाप्त हो जाएगा जो कि जीएसटी की सफलता के लिए कोई अच्छे संकेत नहीं है। जीएसटी कौंसिल की स्थापना एक विशेष उद्देश्य से की गई है और इस तरह से यदि उसके फैसले देरी से लागू किये गए तो उनका महत्त्व ही समाप्त हो जाएगा।

लेट फीस को लेकर कोई तार्किक फैसला शीघ्र हो :

लेट फीस के बारे में भी सरकार को जल्दी ही कोई फैसला ले लेना चाहिए कि जिन डीलर्स ने उन महीनों की लेट फीस जमा करा कर रिटर्न भरे हैं जिन महीनों के लेट फीस बाद में माफ कर दी थी या कम कर दी थी तो उन्हें यह लेट फीस लौटाने की व्यवस्था की जाए ताकि जीएसटी में डीलर्स का विश्वास पुख्ता हो।

कभी-कभी तो लगता है जीएसटी एक कर नहीं बल्कि लेट फीस ही जीएसटी है और सरकार को यह धारणा समाप्त करनी चाहिए। जीएसटी कौंसिल के पास नवम्बर 2017 में लॉ कमिटी की सिफारिश आई थी कि लेट फीस की अधिकतम सीमा को जीएसटी की आउटपुट सीमा तक सीमित कर दिया जाए लेकिन अभी भी इस पर कोई फैसला नहीं किया गया।

जीएसटी नेटवर्क में सुधार करें :

सरकार जीएसटी के नेटवर्क में सुधार करे या फिर इसके सेवा प्रदाता की कोई तकनीकी

मदद करे या फिर सेवा प्रदाता को बदले ताकि जीएसटी नेटवर्क अपना काम ढंग से कर सके। डीलर्स काफी समय से इसको लेकर भी परेशान हैं और जीएसटी की सफलता में यह भी एक बहुत बड़ी बाधा है। इस मामले में सबसे बड़ी बात यह है कि पहले तो दो साल तक इस समस्या को माना ही नहीं गया लेकिन अब जब मान लिया गया है तो फिर इसका समाधान अब तो हो जाना चाहिए।

इस समय जीएसटी नेटवर्क से कोई ज्यादा शिकायतें नहीं है लेकिन इसका कारण है कि कोरोना संकट के कारण रिटर्न भरने के लिए अधिक समय दिया गया है लेकिन स्थिति सामान्य होते ही जीएसटी नेटवर्क में सुधार जरूरी हो जाएगा।

रिवर्स चार्ज को तार्किक करें :

रिवर्स चार्ज भी जीएसटी में एक समस्या है और सरकार को कम से कम ऐसे रिवर्स चार्ज को जिसका कोई वित्तीय प्रभाव नहीं है उसे समाप्त करे और भूलवश किसी डीलर ने इसे जमा नहीं कराया लेकिन इससे सरकार के राजस्व में कोई नुकसान नहीं हुआ हो तो इसमें राहत देने पर भी विचार करे।

समस्याओं का हल शीघ्र करें :

सरकार इन मसलों पर यदि जल्द ही फैसला कर राहत देगी तो जीएसटी में सरलीकरण का उद्देश्य पूरा होगा और जीएसटी जब सरल होगा तो इसका पालन करना आसान होगा और यदि डीलर्स इसका पूरा-पूरा पालन करेंगे तो सरकार का राजस्व भी बढ़ेगा।

जीएसटी कानून को एक बार फिर से देखें :

वैसे तो यह बहुत जल्दी है लेकिन जीएसटी कानून को लेकर जिस प्रकार से नोटिफिकेशन, सर्कलर, स्पष्टीकरण जारी करने पड़े हैं उससे तो अब यही बेहतर है वे कानून को ही एक बार फिर से बना दें क्योंकि अभी वाले कानून में विवाद की बहुत अधिक संभावना है जो किसी भी सरल कर कानून के लिए अच्छी बात नहीं है।

एकल कर प्रणाली के बार में विचार करें :

जीएसटी का आदर्श स्वरूप है 'एकल कर' जहां डीलर्स को एक ही कर का भुगतान करना पड़े लेकिन भारत में राज्यों और केंद्र दोनों के कर लगाने के अधिकार के चलते उद्योग एवं व्यापार को जीएसटी के आदर्श स्वरूप से वंचित रहना पड़ा और जीएसटी की बहुत सी समस्याएं इस जीएसटी दोहरे कर के कारण है। अब राज्य और केंद्र के बीच कर लगाने के अधिकार को लेकर जो भी विवाद हैं उसे उन्हें अच्छी तरह से इस तरह से निपटा लेना चाहिए ताकि भारत के व्यापार और उद्योग को एक आदर्श जीएसटी व्यवस्था मिल सके।



(11) स्वास्थ्य सेवाओं पर जीएसटी

- सी.ए. जे.पी. डफरिया



कोरोना महामारी के वर्तमान समय में स्वास्थ्य सेवाओं ने अपनी अलग से एक विशिष्ट पहचान बनाई है। इस कारण से इन सेवाओं की जीएसटी कानून में क्या स्थिति है, अगर उस पर विस्तृत विचार किया जाए तो यह अत्यंत ही सामयिक होगा। अतः यह लेख प्रस्तुत है।

स्वास्थ्य सेवाओं में कई प्रकार की सेवाएं एवं वस्तुएं सम्मिलित हैं। जीएसटी कानून में इनमें से कई सेवाओं एवं वस्तुओं पर जीएसटी कानून लगता भी है और नहीं भी लगता है। इस कारण से इस लेख में यह स्पष्ट करने का प्रयास किया गया है कि जीएसटी कानून के तहत स्वास्थ्य सेवाओं एवं वस्तुओं पर जीएसटी की वर्तमान स्थिति क्या है।

स्वास्थ्य सेवाओं में जिस प्रकार की सेवाओं को छूट मिली हुई है उसके लिये नोटिफिकेशन क्रमांक 12/2017-केंद्रीय कर (दर) दि. 28-6-2017 जारी हुआ है जो निम्नानुसार है:

Services by way of :-

- (a) “Health care Services” by a Clinical Establishment or Authorized Medical Practitioner or Paramedics;
- (b) Services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above

उक्त अधिसूचना में उपयोग में लिये शब्दों को निम्नानुसार परिभाषित किया गया है-

“Health care service” has been defined as any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;

“clinical establishment” means a hospital, nursing home, clinic, sanatorium or any other institution, by whatever name called, that offers services

or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;

“authorised medical practitioner” means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practise in any recognised system of medicines in India as per any law for the time being in force;

इसी अधिसूचना में उक्त के अलावा अन्य छूट प्राप्त स्वास्थ्य सेवाएं भी बताई गई हैं, जो निम्नानुसार है-

अनुक्रमांक 46 : Services by a veterinary clinic in relation to health care of animals or birds.

अनुक्रमांक 73 : Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.

अनुक्रमांक 74 : Transportation of Patients in Ambulance

उपरोक्त अधिसूचना के अनुसार लगभग कई सारी स्वास्थ्य सेवाएं आदि जीएसटी के दायरे से बाहर रखी गई हैं और उन पर जीएसटी नहीं लगाया गया है। इस कारण से सामान्यतः यह लगता है कि स्वास्थ्य संबंधी सेवाओं पर जीएसटी नहीं है और अस्पतालों को जीएसटी कानून से कोई लेना-देना नहीं है। लेकिन यह भ्रम की स्थिति हो सकती है। क्योंकि ऐसी कई सारी स्वास्थ्य सेवाएं एवं वस्तुएं हैं जिन पर जीएसटी लगाया गया है अथवा लगता है, इस कारण से इनके बारे में जान लेना आवश्यक है अन्यथा आगे चलकर इन अस्पतालों के लिये कई सारी परेशानी की स्थिति बनने की संभावना हो सकती है जिससे इंकार नहीं किया जा सकता है।

इन स्थितियों को समझने के लिए सर्व प्रथम जीएसटी विभाग द्वारा जारी विभिन्न स्पष्टीकरणों को जानना आवश्यक है। जो मुख्य रूप से निम्न हैं।

सर्कुलर नंबर 32/06/2018. दिनांक 12-2-2018 से दिया गया स्पष्टीकरण-

1. किसी अस्पताल में जब कोई वरिष्ठ डॉक्टर या कन्सल्टेन्ट या टेक्नीशियन, जो कि स्वतंत्र रूप से, बिना किसी अनुबंध के अथवा बिना नियोक्ता-कर्मचारी रिश्तों के, अपनी सेवाएं किसी मरीज को देता है और अस्पताल जब ऐसे डॉक्टर आदि को कन्सल्टेंसी चार्ज के रूप में भुगतान

करता है तब यह प्रश्न उठना स्वाभाविक है कि क्या इस कन्सल्टेंसी चार्ज पर जीएसटी लगाया जा सकता है अथवा क्या यह समझाया जा सकता है कि इस डॉक्टर ने अपनी सेवाएं मरीज को न देकर अस्पताल को दी इस कारण से इस पर जीएसटी नहीं लगाया जा सकता है।

इस बाबद विभाग की तरफ से यह स्पष्टीकरण दिया गया है कि चूंकि अस्पताल ने इन लोगों से सेवाएं ली हैं इस कारण से इस राशि पर जीएसटी नहीं लगाया जाए फिर भले ही वह व्यक्ति अस्पताल का कर्मचारी नहीं हो। यहां यह जरूरी है कि ली गई एवं दी गई राशि का विधिवत इन्द्राज अस्पताल के रिकार्ड में हो तभी यह संभव होगा।

2. कई एक अस्पतालों में मरीजों से एक मुश्त राशि ली जाकर उसका उपयोग मरीज को दी जाने वाली विभिन्न सेवाओं, जैसे विभिन्न जांच-टेस्ट, एक्स-रे, आदि में उपयोग किया जाता है और उस राशि में से विभिन्न टेक्नीशियनों आदि को भुगतान किया जाता है अथवा विभिन्न नर्सिंग सेवाओं के लिये आंतरिक एवं आनुषांगिक सेवाओं में पेरा-मेडिकल सेवाओं के लिये अथवा आपातकालीन सेवाओं आदि के लिये किया जाता है। विभाग के उक्त सर्कुलर के अनुसार इस राशि को कम्पोजिट राशि माना जाकर जीएसटी से कर-मुक्त माना गया है। इसके लिये अस्पताल द्वारा बनाया गया बिल भी इसी अनुसार हो, यह आवश्यक होगा।

3. इसी प्रकार कई एक अस्पतालों में भरती मरीजों को अस्पताल से भोजन नाश्ता आदि भी दिया जाता है जो कि अस्पताल में चलने वाले कैंटीन में ही बनता है, उक्त सर्कुलर के अनुसार इस सेवा को भी कम्पोजिट सप्लाय माना गया है और अस्पताल इस सेवा पर न तो जीएसटी वसूल करेगा और न ही इस सेवा पर उसे जीएसटी देना है।

परन्तु जब अस्पताल ऐसी सेवाओं के लिये किसी बाहर वाले कैंटीन से सेवाएं लेता है तब यह बाहरी कैंटीन उसके द्वारा की जा रही सप्लाय पर तय दर से जीएसटी लगायेगा। परन्तु ऐसे जीएसटी का समायोजन अस्पताल को नहीं मिलेगा।

इसके अलावा जब यह अस्पताल अपने कैंटीन से अपने डॉक्टर्स अथवा स्टाफ को खाना नाश्ता आदि देता है तो इस प्रकार की सप्लाय पर इस अस्पताल को जीएसटी देना होगा। ठीक इसी प्रकार बाहरी कैंटीन से सामग्री बुलवाकर जब डॉक्टर्स-स्टाफ को दी जाती है तब उस सामग्री पर लगने वाले जीएसटी की क्रेडिट अस्पताल को नहीं मिलेगी।

जब अस्पताल अपने यहां के कैंटीन से अन्य व्यक्तियों जिनमें उसके यहां ऐसे मरीज जो कि उसके यहां भरती नहीं हैं, उनको किसी प्रकार की सेवाएं देता है तो ऐसी सप्लाय पर अस्पताल को जीएसटी देना होगा।

जब अस्पताल अपने स्टाफ को अथवा विजिटिंग डॉक्टर्स, टेक्नीशियन्स आदि को अन्य कोई सुविधा आदि प्रदान करता है तो वह भी जीएसटी कानून के अंतर्गत कर योग्य हो सकती है।

ठीक इसी प्रकार की सेवाएं कई अस्पताल अपने यहां दवाई की दुकान खोलकर दवाईयां एवं अन्य स्वास्थ्य संबंधी कई एक वस्तुएं जैसे स्टेंट, प्रत्यार्पण की जाने वाली वस्तुएं, प्लास्टर्स, ड्रीप्स, दिव्यांगों को दी जाने वाली वस्तुएं, आदि प्रदाय करता है और तब जब यह सप्लाय कम्पोजीट सप्लाय की श्रेणी में आती हो तब तो ऐसी सप्लाय पर अस्पताल को जीएसटी नहीं देना होगा। ऐसी वस्तुओं के क्रय पर अगर कोई जीएसटी लगा है तो अस्पताल को उसकी आईटीसी की छूट भी नहीं मिलेगी। परन्तु जब यह सुविधा किसी बाहरी व्यक्तियों को अथवा बाहरी मरीजों को दी जाती है तब उस दशा में उन सप्लाय पर लगने वाली दर से अस्पताल को जीएसटी देने की पात्रता आवेगी और आईटीसी लेने की भी पात्रता रहेगी।

इसके अलावा अन्य कई एक प्रकार की सेवाएं अस्पताल सामान्यतः प्रदान कर रहीं हैं जो सामान्यतः स्वास्थ्य संबंधी सेवाओं में नहीं आती है तब इन सेवाओं पर जीएसटी देने की पात्रता अस्पताल की आवेगी। ऐसी सेवाएं उदाहरण के लिये निम्न प्रकार की हो सकती हैं-

- * दवाई की दुकान, कैंटीन आदि खोलने के लिये जगह किराये देने पर होने वाली किराये से प्राप्त आय।
- * पुराना स्क्रेप (मेडिकल वेस्ट को छोड़कर) विक्रय करने पर प्राप्त राशि।
- * वाहन आदि का पार्किंग शुल्क।
- * मरीज के साथ आने वाले अन्टेन्डर से लिये जाने वाले लाजिंग-बोर्डिंग आदि से होने वाली आय।
- * अस्पताल की विभिन्न वस्तुएं जैसे व्हील चेयर आदि किराये देने से होने वाली आय।

इस प्रकार स्वास्थ्य संबंधी सेवाओं पर जो कि अस्पताल अथवा क्लीनिक अथवा किसी डॉक्टर द्वारा स्वतंत्र रूप से दी जा रहीं हो तो उस पर सामान्यतः जीएसटी नहीं है परन्तु उपरोक्त वर्णित कई एक दशाओं में इस प्रकार की सेवाओं पर अस्पताल आदि पर जीएसटी देने का दायित्व आ सकता है जिसका ध्यान रखा जाना चाहिये। इस कारण से मोटे तौर पर जीएसटी कानून की धारा 23 के अनुसार अस्पताल की सेवाएं अ-करयोग्य होने से जीएसटी में पंजीयन की आवश्यकता नहीं है परन्तु उक्त कई एक कारणों से अथवा मिक्सड सेवाएं देने की अवस्था में अस्पतालों को जीएसटी में पंजीयन करा लेना चाहिये।



(12) The Central Goods and Services Tax (Ninth Amendment) Rules, 2020

No. 60/2020-Central Tax

G.S.R. 480(E). New Delhi, Dated 30th July, 2020 - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: -

1. (1) These rules may be called the Central Goods and Services Tax (Ninth Amendment) Rules, 2020.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Central Goods and Services Tax Rules, 2017, for **FORM GST INV-01**, the following form shall be substituted, namely:-

“FORM GST INV - 1

(See Rule 48)

Format/Schema for e-Invoice

Note 1: Cardinality means whether reporting of the item(s) is mandatory or optional as explained below:

- 0..1:** It means that reporting of item is optional and when reported, the same cannot be repeated.
- 1..1:** It means that reporting of item is mandatory but cannot be repeated.
- 1..n:** It means that reporting of item is mandatory and can be repeated more than once.
- 0..n:** It means that reporting of item is optional but can be repeated more than once if reported. For example, *previous invoice reference is optional but if required one can mention many previous invoice references.*

Note 2: Field specification Number (*Max length: m, n*) indicates ‘m’ places before decimal point and ‘n’ places after decimal point. For example, *Number (Max length: 3,3) will have the format 999.999*

Schema (Version 1.1)							
Sr. No.	Technical name of the field	Cardinality (0..1/ 1..1/ 0..n/ 1..n)	Brief Description of the field	Whether Mandatory/ Optional	Technical Field Specification	Sample Value of the field	Explanatory Notes
1.	Basic Details	1..1		Mandatory			Header for Basic Details
1.0	Version	1..1	Version Number	Mandatory	String (Max. Length:6)	1.1	This is version of the e-invoice schema. It will be used to keep track of version of Invoice specification.
1.1	IRN	1..1	Invoice Reference Number	Mandatory	String (Length: 64)	a5c12dca80e7433217....b4013750f2046f229	<p>This will be a unique reference number for the invoice.</p> <p><u>However, the supplier will not be populating this field.</u></p> <p>The registration request may not have this field populated.</p> <p>The Invoice Registration Portal (IRP) will generate this IRN and respond to the registration request.</p> <p>e-invoice is valid only when it has the IRN. Hence, this is marked as mandatory field.</p>
1.2	Supply_Type_Code	1..1	Code for Supply Type	Mandatory	Enumerated List	B2B/B2C/SEZWP/SEZW OP/EXP WP/EXPWO P/DEXP	<p>This will be the code to identify type of supply.</p> <p>B2B: Business to Business</p> <p>B2C: Business to Consumer</p>

							<p>SEZWP: To SEZ with Payment</p> <p>SEZWOP: To SEZ without Payment</p> <p>EXPWP: Export with Payment</p> <p>EXPWOP: Export without Payment</p> <p>DEXP: Deemed Export</p>
1.3	Document_Type_Code	1..1	Code for Document Type	Mandatory	Enumerated List	INV / CRN / DBN	<p>Type of Document:</p> <p>INV for Invoice,</p> <p>CRN for Credit Note,</p> <p>DBN for Debit note.</p>
1.4	Document_Num	1..1	Document Number	Mandatory	String (Max Length:16)	Sa/1/2019	This is as per relevant rule in CGST/SGST/UTGST Rules.
1.5	Document_Date	1..1	Document Date	Mandatory	String (DD/MM/YYYY)	21/07/2019	The date on which the Invoice was issued. Format "DD/MM/YYYY"
1.6	Additional_Currency_Code	0..1	Additional Currency Code	Optional	Enumerated List	USD, EUR	<p>The field is for reporting additional currency, if any, in which all invoice amounts can be given, along with INR.</p> <p>One such additional currency may be used in the invoice, as per list published under ISO 4217 standard.</p>

							List published and updated from time to time at https://www.icegate.gov.in/Webapp/CUR_ENQ
1.7	Reverse_Charge	0..1	Reverse Charge	Optional	String (Length: 1)	Y	Whether the tax liability payable is under Reverse Charge.
1.8	IGST_Applicability_despite_Supplier_and_Recipient_located_in_same_State/UT	0..1	IGST Applicability despite Supplier and Recipient located in same State/UT	Optional	String (Length: 1)	N	To report the scenarios where the supply is chargeable to IGST despite the fact that the Supplier and Recipient are located within same State/UT
2.	Document_Period	0..1		Optional			Header for Document Period
2.1	Document_Period_Start_Date	1..1	Document Period Start Date	Mandatory	String (DD/MM/YYYY)	21/07/2019	This is the start date of the document period (delivery/invoice period). <i>(This field is mandatory only if this section is selected)</i>
2.2	Document_Period_End_Date	1..1	Document Period End Date	Mandatory	String (DD/MM/YYYY)	21/07/2019	This is the end date of the document period (delivery/invoice period). <i>(This field is mandatory only if this section is selected)</i>
3.	Preceding Document / Contract Reference	0..1		Optional			Header for Preceding Document / Contract Reference

3.1	Preceding Document Reference	0..n		Optional		Sub-header for Preceding Document Reference
3.1.1	Preceding_Document_Number	1..1	Preceding Document Number	Mandatory	String (Max length:16)	<p>This is the reference of original document/invoice to be provided optionally in the case of debit or credit notes.</p> <p>Credit/Debit notes, against invoices can also be referred here.</p> <p><i>(This field is mandatory only if this section is selected)</i></p>
3.1.2	Preceding_Document_Date	1..1	Date of Preceding Document	Mandatory	String (DD/MM/YYYY)	<p>Date of preceding document/invoice.</p> <p><i>(This field is mandatory only if this section is selected)</i></p>
3.1.3	Other_Reference	0..1	Other Reference	Optional	String (Max length:20)	<p>This field is to provide any additional reference e.g. specific branch, their user ID, their employee ID, sales centre reference etc.</p>
3.2	Receipt / Contract References	0..n		Optional		Sub-header for Receipt / Contract References
3.2.1	Receipt_Advice_Reference	0..1	Receipt Advice Reference	Optional	String (Max length:20)	<p>This reference is kept for user to provide number of their receipt advice to their customer, in lieu of advance.</p>
3.2.2	Receipt_Advice_Date	0..1	Date of Receipt Advice	Optional	String (DD/MM/YYYY)	<p>Date of issue of receipt advice for advance.</p>

3.2.3	Tender_or_Lot_Reference	0..1	Tender or Lot Reference	Optional	String (Max length:20)	TENDERJAN 2020	This reference is kept for mentioning number or details of Lot or Tender, if supplies are made under such Lot or tender.
3.2.4	Contract_Reference	0..1	Contract Reference	Optional	String (Max length:20)	CONT23072019	This reference is kept for mentioning contract number, if supplies are made under any specific Contract
3.2.5	External_Reference	0..1	External Reference	Optional	String (Max length:20)	EXT23222	An additional field for provision of any additional/external reference number for the supply.
3.2.6	Project_Reference	0..1	Project Reference	Optional	String (Max length:20)	PJTCODE01	This reference is kept for mentioning project number, if supplies are made under any specific project
3.2.7	PO_Ref_Num	0..1	PO Reference Number	Optional	String (Max length:16)	Vendor PO /1	This is the reference number of Purchase Order
3.2.8	PO_Ref_Date	0..1	PO Reference Date	Optional	String (DD/MM/YYYY)	21/07/2019	This is the date of Purchase Order.
4.	Supplier Information	1..1		Mandatory			Header for Supplier Information
4.1	Supplier_Legal_Name	1..1	Supplier Legal Name	Mandatory	String (Max. length:100)	XYZ Ltd.	Legal Name, as appearing in PAN of the Supplier
4.2	Supplier_Trade_Name	0..1	Trade Name of Supplier	Optional	String (Max length:100)	ABC Traders	A name by which the Supplier is known, i.e. Business Name, other than legal name
4.3	Supplier_GSTIN	1..1	GSTIN of Supplier	Mandatory	String (Length:15)	29AADFV7589C1ZX	GSTIN of the Supplier
4.4	Supplier_Address1	1..1	Supplier Address 1	Mandatory	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda	Address 1 of the Supplier (Building/Flat no., Road/Street, Locality etc.)

4.5	Supplier_Address2	0..1	Supplier Address 2	Optional	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda Apartments, MG Road, Vasanth Nagar	Address 2 of the Supplier (Building/Flat no., Road/Street, Locality etc.), if any
4.6	Supplier_Place	1..1	Supplier Place	Mandatory	String (Max length:50)	Bangalore	Location of the Supplier (City/Town/Village)
4.7	Supplier_State_Code	1..1	Supplier State Code	Mandatory	Enumerated List	29	State Code of the Supplier as per GST System List published and updated from time to time at https://www.icegate.gov.in/Webapp/STATE_ENQ
4.8	Supplier_Pincode	1..1	Supplier PIN Code	Mandatory	Number (Length: 6)	560087	PIN Code of the Supplier Locality
4.9	Supplier_Phone	0..1	Supplier Phone	Optional	String (Max length:12)	9999999999	Contact number of the Supplier
4.10	Supplier_Email	0..1	Supplier e-mail	Optional	String (Max length:100)	supplier@abc.com	e-mail ID of the Supplier, as per REGEX (Regular Expressions) pattern
5.	Recipient Information	1..1		Mandatory			Header for Recipient Information
5.1	Recipient_Legal_Name	1..1	Recipient Legal Name	Mandatory	String (Max. length:100)	PQR Pvt. Ltd.	It will be legal name of recipient, as per PAN.
5.2	Recipient_Trade_Name	0..1	Recipient Trade Name	Optional	String (Max length:100)	Adarsha	It will be trade name of recipient, if available.

5.3	Recipient_ GSTIN	1..1	GSTIN of Recipient	Mandatory	String (Length:15)	29ABCCR18 32C1ZX, URP	GSTIN of the Recipient, if available. URP: In case of exports or if supplies are made to unregistered persons
5.4	Place_Of_Supply _State_ Code	1..1	Place of Supply (State Code)	Mandatory	Enumerated List	29, 96	Code/State Code of Place of Supply as per GST System. List published and updated from time to time at https://www.icegate.gov.in/Webapp/STATE_ENQ
5.5	Recipient_ Address1	1..1	Recipient Address 1	Mandatory	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda Apartments, MG Road, Vasanth Nagar	Address 1 of the Recipient (Building/Flat no., Road/Street, Locality etc.)
5.6	Recipient_ Address2	0..1	Recipient Address 2	Optional	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda Apartments, MG Road, Vasanth Nagar	Address 2, if any, of the Recipient (Building/Flat no., Road/Street, Locality etc.), if any
5.7	Recipient_Place	1..1	Recipient Place	Mandatory	String (Max length:100)	Mysore	Location of the Recipient (City/Town/Village)
5.8	Recipient_State_ Code	1..1	Recipient State Code	Mandatory	Enumerated List	29	Code/State Code of the Recipient. List published and updated from time to time at https://www.icegate.gov.in/Webapp/STATE_ENQ

5.9	Recipient_Pin code	0..1	Recipient PIN Code	Optional	Number (Length: 6)	560002	PIN code of the Recipient locality. In case of export, Pincode need not be mentioned.
5.10	Country_Code_ of_Export	0..1	Country Code of Export	Optional	Enumerated List	AN	Code of country of export as per ISO 3166-1 alpha-2 / Indian Customs EDI system. List published and updated from time to time at https://www.icegate.gov.in/Webapp/COUNTRY_ENQ
5.11	Recipient_Phone	0..1	Recipient Phone	Optional	String (Max length:12)	0802223323	Contact number of the Recipient
5.12	Recipient_email_ ID	0..1	Recipient e-mail ID	Optional	String (Max length:100)	billing@xyz. com	e-mail ID of the Recipient, as per REGEX (Regular Expressions) pattern
6.	Payee Information	0..1		Optional			Header for Payee Information
6.1	Payee_Name	0..1	Payee Name	Optional	String (Max length:100)	Ramesh K	Name of the person to whom payment is to be made
6.2	Payee_Bank_ Account_ Number	0..1	Payee Bank Account Number	Optional	String (Max length:18)	38685017472 62	Bank Account Number of Payee
6.3	Mode_of_ Payment	0..1	Mode of Payment	Optional	String (Max length:18)	Direct Transfer	Mode of Payment: Cash/Credit/Direct Transfer etc.
6.4	Bank _ Branch_ Code	0..1	Bank Branch Code	Optional	String (Max length:11)	SBIN987654 3	Indian Financial System Code (IFSC) of Payee's Bank Branch

6.5	Payment_Terms	0..1	Payment Terms	Optional	String (Max length:100)	Text	Terms of Payment, if any, with the Recipient can be provided.
6.6	Payment_Instruction	0..1	Payment Instruction	Optional	String (Max length:100)	Text	Instruction, if any, regarding payment can be provided
6.7	Credit_Transfer_Terms	0..1	Credit Transfer Terms	Optional	String (Max length:100)	Text	Terms to specify credit transfer payments.
6.8	Direct_Debit_Terms	0..1	Direct Debit Terms	Optional	String (Max x length:100)	Text	Terms, if any, to specify a direct debit.
6.9	Credit_Days	0..1	Credit Days	Optional	Numeric (Max length:4)	30	Number of days within which payment is due.
7.	Delivery_Information	0..1		Optional			Header for Delivery Information
7.1	Ship_To_Details	0..1	Ship To Details	Optional		<u>Refer A 1.0</u>	Details of location to which the supply has to be delivered.
7.2	Dispatch_From_Details	0..1	Dispatch From Details	Optional		<u>Refer A 1.1</u>	Details of location from where Supply has to be dispatched.
8.	Invoice Item Details	1..n		Mandatory			Header for Invoice Item Details
8.1	Item_List	1..n	Item List	Mandatory		<u>Refer A 1.2</u>	Provides information about the goods and services being invoiced.
9.	Document Total	1..1		Mandatory			Header for Document Total Details
9.1	Document_Total_Details	1..1	Document Total Details	Mandatory		<u>Refer A 1.3</u>	Details of document total including taxes.
10.	Extra Information	0..1		Optional			Header for Extra Information

10.1	Tax_Scheme	1..1	Tax Scheme	Mandatory	String (Max length: 10)	GST	To specify the tax/levy applicable – GST <i>(This field is mandatory only if this section is selected)</i>
10.2	Remarks	0..1	Remarks	Optional	String (Max length: 100)	New batch Items submitted	A textual note that gives unstructured information that is relevant to the Invoice as a whole e.g. reasons for any correction or assignment note in case the invoice has been factored etc.
10.3	Port_Code	0..1	Port Code	Optional	Enumerated List	Alpha numeric	In case of export/supply to SEZ, port code can be mentioned as per Indian Customs EDI System (ICES), if applicable and available at the time of reporting e-invoice. Lists published and updated from time to time at below URLs: EDI Port Codes: <a href="https://www.icegate.gov.in/Weba
pp/LOCATION_ENQ">https://www.icegate.gov.in/Weba pp/LOCATION_ENQ Non-EDI Port Codes: <a href="https://www.icegate.gov.in/Weba
pp/nonlocation_det_all.jsp">https://www.icegate.gov.in/Weba pp/nonlocation_det_all.jsp
10.4	Shipping_Bill_ Number	0..1	Shipping Bill Number	Optional	String (Max length: 20)	Alpha numeric	In case of export/supply to SEZ, shipping bill number as per Indian Customs EDI System (ICES), can be mentioned, if applicable and available at the time of reporting e-invoice.
10.5	Shipping_Bill_ Date	0..1	Shipping Bill Date	Optional	String(DD/M M/YYYY)	03/12/2020	Date of Shipping Bill as per Indian Customs EDI System (ICES)

10.6	Export_Duty_Amount	0..1	Export Duty Amount	Optional	Number (Max Length: 12,2)	1200000.50	Amount of Export Duty in INR, if any, applicable (in case of invoices for export)
10.7	Supplier_Can_Opt_Refund	0..1	Supplier Can Opt Refund	Optional	String (Length: 1)	Y / N	In case of deemed export supplies, this field is for mentioning whether supplier can exercise the option of claiming refund or not.
10.8	ECOM_GSTIN	0..1	e-Commerce Operator's GSTIN	Optional	String (Length: 15)	29ABCCR1832 C1CX	GSTIN of e-commerce operator, if supply is made through him/her.
11.	Additional_Supporting_Documents	0..n		Optional			Header for Additional Supporting Documents
11.1	Additional_Supporting_Documents_URL	0..1	Additional Supporting Documents URL	Optional	String (Max length: 100)	http://www.xyz.com/abc	This is to enter URL reference of additional supporting documents, if any.
11.2	Additional_Supporting_Documents_base64	0..1	Additional Supporting Document in base64	Optional	String (Max length: 1000)	Base 64 encoded Document	This is to add any additional document in PDF/Microsoft Word in Base64 encoded format.
11.3	Additional_Information	0..1	Additional Information	Optional	String (Max length: 1000)	Free text, remarks, identifiers, etc.	Any additional information, names, values, data etc. that is specific for the Supplier-Recipient transaction e.g. CIN, trade-specific information, Drug Licence Reg. No., FOB/CIF etc.
12.	E-way Bill Details	0..1		Optional			Header for e-way Bill Details
12.1	Transporter_ID	0..1	Transporter ID	Optional	String (Length: 15)	29AADFV7589 C1ZO	Registration / Enrolment Number of the transporter

12.2	Trans_Mode	0..1	Mode of Transportation	Optional	Enumerated List	1/2/3/4	<p>(This field is required if Part-A of E-waybill has to be generated)</p> <p>Option to be provided based on mode of transport available on e-Way Bill Portal</p> <p>1 for Road;</p> <p>2 for Rail;</p> <p>3 for Air;</p> <p>4 for Ship</p> <p>(This field is required if Part-B of e-way bill is also to be generated)</p>
12.3	Trans_Distance	1..1	Distance of Transportation	Mandatory	Number (Max length: 4)	200	<p>Distance of Transportation</p> <p>(This field is mandatory only if this section is selected)</p>
12.4	Transporter_Name	0..1	Transporter Name	Optional	String (Max length: 100)	Sphurthi Transporters	Name of the Transporter
12.5	Trans_Doc_No.	0..1	Transport Document Number	Optional	String (Max length: 15)	As/34/746	<p>Transport Document Number</p> <p>(This field is mandatory if mode of Transport is Rail or Air or Ship)</p>
12.6	Trans_Doc_Date	0..1	Transport Document Date	Optional	String (DD/MM/YYYY)	21/07/2019	<p>Date of Transport document.</p> <p>(This field is mandatory if mode of Transport is Rail or Air or Ship)</p>
12.7	Vehicle_No.	0..1	Vehicle Number	Optional	String (Max. length: 20)	KA12KA1234 or KA12K1234 or KA123456 or KAR1234	<p>Vehicle Registration Number</p> <p>(This field is mandatory if mode of Transport is Road)</p>

12.8	Vehicle_Type	0..1	Vehicle Type	Optional	Enumeration List	O / R	To mention nature of vehicle: O: Over-Dimensional Cargo R: Regular <i>(This field is mandatory if Part-B of e-way bill is also to be generated)</i>
A 1.0	Ship To Details	0..1		Optional			Header for Annexure A 1.0: Ship To Details
Sr. No.	Parameter Name	Cardinality	Description	Whether optional or mandatory	Field Specifications	Sample Value	Explanatory Notes
A.1.0.1	ShipTo_Legal_Name	1..1	Ship To Legal Name	Mandatory	String (Max length: 100)	ABC-1 Ltd.	Legal Name of the entity to whom the supplies are shipped to. <i>(This field is mandatory only if this section is selected)</i>
A.1.0.2	ShipTo_Trade_Name	0..1	Ship To Trade Name	Optional	String (Max length: 100)	XYZ-1	Trade Name of the entity to whom the supplies are shipped to.
A.1.0.3	ShipTo_GSTIN	0..1	Ship To GSTIN	Optional	String (Length: 15)	36AABCT2223 L1ZF	GSTIN of the entity to whom the supplies are shipped to.
A.1.0.4	ShipTo_Address1	1..1	Ship To Address1	Mandatory	String (Max length: 100)	Flat No. 2, Priya Towers, Omega Road, Srinivasa Nagar	Address 1 of the entity to whom the supplies are shipped to <i>(This field is mandatory only if this section is selected)</i>
A.1.0.5	ShipTo_Address2	0..1	Ship To Address2	Optional	String (Max length: 100)	Flat No. 2, Priya Towers, Omega Road, Srinivasa Nagar	Address 2, if any, of the entity to whom the supplies are shipped to

A.1.0.6	ShipTo_Place	1..1	Ship To Place	Mandatory	String (Max length: 100)	Bangalore	Place (City/Town/Village) of entity to whom the supplies are shipped to. <i>(This field is mandatory only if this section is selected)</i>
A.1.0.7	ShipTo_Pincode	1..1	Ship To Pincode	Mandatory	Number (Max length: 6)	560001	PIN code of the location to which the supplies are shipped to. <i>(This field is mandatory only if this section is selected)</i>
A.1.0.8	Ship_To_State_Code	1..1	Ship To State Code	Mandatory	Enumerated List	29	Code/State Code (as per GST System) to which the supplies are shipped to. List published and updated from time to time at https://www.icegate.gov.in/Webapp/STATE_ENQ <i>(This field is mandatory only if this section is selected)</i>
A.1.1	Dispatch From Details	0..1		Optional			Header for Annexure A.1.1: Dispatch From Details
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specific ations	Sample Value	Explanatory Notes
A.1.1.1	DispatchFrom_Name	1..1	Dispatch From Name	Mandatory	String (Max length:100)	XYZ-2	Name of the entity from which goods are dispatched. <i>(This field is mandatory only if this section is selected)</i>

A.1.1.2	DispatchFrom_ Address1	1..1	Dispatch From Address1	Mandatory	String (Max length: 100)	Building No. 4/2, Flat No. 3, Kakatiya Apartments, Vasanth Nagar	Address 1 of the entity from which goods are dispatched. <i>(This field is mandatory only if this section is selected)</i>
A.1.1.3	DispatchFrom_ Address2	0..1	Dispatch From Address2	Optional	String (Max length: 100)	Building No. 4/2, Flat No. 3, Kakatiya Apartments, Vasanth Nagar	Address 2 of the entity from which goods are dispatched.
A.1.1.4	DispatchFrom_ Place	1..1	Dispatch From Place	Mandatory	String (Max length: 100)	Bangalore	Place (City/Town/Village) of the entity from which goods are dispatched. <i>(This field is mandatory only if this section is selected)</i>
A.1.1.5	DispatchFrom_ State_Code	1..1	Dispatch From State Code	Mandatory	Enumerated List	29	Code/State Code of the entity (as per GST System), from which goods are dispatched. List published and updated from time to time at https://www.icegate.gov.in/Webapp/STATE_ENQ <i>(This field is mandatory only if this section is selected)</i>
A.1.1.6	DispatchFrom_ Pincode	1..1	Dispatch From Pincode	Mandatory	Number (Length: 6)	560087	Pincode of the locality of entity from where goods are dispatched. <i>(This field is mandatory only if this section is selected)</i>

A 1.2	Item Details	1..n	Description	Mandatory	Field Specifications	Sample Value	Header for Annexure A 1.2: Item Details
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional			Explanatory Notes
A.1.2.1	Sl_No.	1..1	Serial Number	Mandatory	String (Max length: 6)	1,2,3	Serial number of the item
A.1.2.2	Item_Description	0..1	Item Description	Optional	String (Max length: 300)	Mobile	Description of the item
A.1.2.3	Is_Service	1..1	Service	Mandatory	String (Length: 1)	Y/N	Specify whether supply is service or not.
A.1.2.4	HSN_Code	1..1	HSN Code	Mandatory	String (Max length: 8)	1122	To enter applicable HSN / SAC Code of Goods / Service
A.1.2.5	Batch Details	0..1		Optional	<u>Refer A 1.4</u>		<i>Some manufacturers may mention batch details (in Section A 1.4)</i>
A.1.2.6	Barcode	0..1	Barcode	Optional	String (Max length: 30)	b123	Barcode, if any, of the item.
A.1.2.7	Quantity	0..1	Quantity	Optional	Number (Max length: 10,3)	10	The quantity of items to be mentioned in the invoice. <i>This is mandatory only in case of goods.</i>
A.1.2.8	Free_Qty	0..1	Free Quantity	Optional	Number (Max length: 10,3)	99	Quantity of item(s), if any, given free of charge (FOC)
A.1.2.9	Unit_Of_Measurement	0..1	Unit of Measurement	Optional	String (Max length: 8)	Box	The Unit of Measurement (UOM), if any, applicable on invoiced goods.
A.1.2.10	Item_Price	1..1	Item Price	Mandatory	Number (Max length : 12,3)	500.5	Price per unit item.

A.1.2.11	Gross_Amount	1..1	Gross Amount	Mandatory	Number (Max length: 12,2)	5000	The gross price of an item (cost multiplied by quantity - rounded off to 2 decimal), exclusive of taxes.
A.1.2.12	Item_Discount_Amount	0..1	Item Discount Amount	Optional	Number (Max length: 12,2)	10.25	Discount amount, if any, for the item.
A.1.2.13	Pre_Tax_Value	0..1	Pre-Tax Value	Optional	Number (Max length: 12,2)	99.00	If pre-tax value is different from taxable value, mention the pre-tax value and taxable values separately. In some cases, the pre-tax value may be different from taxable value. For example, where old goods are exchanged for new ones (e.g. new phone supplied for INR 20,000 along with exchange of old phone, then pre-tax value would be INR 20,000 and taxable value would be INR 24,000, assuming exchange value of old phone is 4,000. Another example is in the case of real estate where pre-tax value may be different from taxable value.
A.1.2.14	Item_Taxable_Value	1..1	Item Taxable Value	Mandatory	Number (Max length: 12,2)	5000	This is the value on which tax is computed. Value cannot be negative.
A.1.2.15	GST_Rate	1..1	GST Rate	Mandatory	Number (Max length: 3,3)	5	The GST rate, represented as percentage that applies to the invoiced item. It will be IGST rate or sum of CGST & SGST Rates.

A.1.2.16	IGST_Amt	0..1	IGST Amount	Optional	Number (Max Length: 12,2)	999.45	Amount of IGST payable per item (rounded off to 2 decimals). If IGST is reported, then CGST & SGST/UTGST will be blank. For taxable supplies, either IGST or CGST & SGST/UTGST should be reported.
A.1.2.17	CGST_Amt	0..1	CGST Amount	Optional	Number (Max Length: 12,2)	650.00	Amount of CGST payable per item (rounded off to 2 decimals). If CGST is reported, then SGST/UTGST has to be reported and IGST will be blank.
A.1.2.18	SGST_UTGST_Amt	0..1	SGST/UTGST Amount	Optional	Number (Max length: 12,2)	650.00	Amount of SGST/UTGST payable per item (rounded off to 2 decimals). If SGST/UTGST is reported, then CGST must be reported and IGST will be blank.
A1.2.19	Comp_Cess_Rate_Ad_valorem	0..1	Compensation Cess Rate, Ad_Valorem	Optional	Number (Max length: 3,3)	2.5%	Ad valorem Rate of GST Compensation Cess, applicable, if any
A1.2.20	Comp_Cess_Amt_Ad_Valorem	0..1	Compensation Cess Amount, Ad Valorem	Optional	Number (Max length: 12,2)	56.00	GST Compensation Cess amount, ad valorem (rounded off to 2 decimals) (based on value of the item)
A1.2.21	Comp_Cess_Amt_Non_Ad_Valorem	0..1	Compensation Cess Amount, Non ad valorem	Optional	Number (Max length: 12,2)	23.00	GST Compensation Cess amount, computed on the basis other than value of item (i.e. specific cess amount computed based on quantity, number etc.)
A1.2.22	State_Cess_Rate_ad_valorem	0..1	State Cess Rate, Ad Valorem	Optional	Number (Max length: 3,3)	1.5 %	Ad valorem Rate of State/UT Cess, applicable, if any

A1.2.23	State_Cess_Amt _Ad_Valorem	0..1	State Cess Amount, ad valorem	Optional	Number (Max length: 12,2)	43.00	State/UT Cess amount, ad valorem (based on value of the item)
A1.2.24	State_Cess_Amt _Non_Ad_ Valorem	0..1	State Cess Amount, non ad valorem	Optional	Number (Max length: 12,2)	12.00	State/UT Cess amount, computed on the basis other than value of item (i.e. specific cess amount computed based on quantity; number etc.)
A.1.2.25	Other_Charges_ Item_Level	0..1	Other Charges (item level)	Optional	Number (Max length: 12,2)	874.95	Any other charges applicable at item level. These may not be part of taxable value, e.g. in case of pure agent reimbursement.
A.1.2.26	Purchase_Order_ Line_Reference	0..1	Purchase Order Line Reference	Optional	String (Max length: 50)	746/ABC/01	Reference of Purchase Order Line
A.1.2.27	Item_Total_Amt	1..1	Item Total Amount	Mandatory	Number (Max length: 12,2)	5000	The item total value that includes all taxes, cesses, as well as other charges. However, this value excludes discount, if any.
A.1.2.28	Origin_Country_ Code	0..1	Code of Country of Origin	Optional	Enumerated List	DZ	This is to specify country of origin of the item, e.g. mobile phone sold in India could be manufactured in other country; Code of country of export as per ISO 3166-1 alpha-2 / Indian Customs EDI system (ICES). List published and updated from time to time at https://www.icegate.gov.in/Webapp/COUNTRY_ENQ

A.1.2.29	Unique_Serial_Number	0..1	Unique Serial Number	Optional	String (Max length: 20)	553	Serial number, in case of each item having a unique number.
A.1.2.30	Product_Attribute_Details	0..n	Optional	Refer A 1.5			Attribute details of product
A 1.3	Document Total Details	1..1		Mandatory			Header for Annexure A 1.3: Document Total Details
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specific ations	Sample Value	Explanatory Notes
A.1.3.1	Taxable_Value_Total	1..1	Total Taxable Value	Mandatory	Number (Max length: 14,2)	768439.35	This is the sum of the taxable values of all the items in the document.
A.1.3.2	IGST_Amt_Total	0..1	Total IGST Amount	Optional	Number (Max length : 14,2)	265.50	Total IGST amount for the invoice. Appropriate taxes based on rule will be applicable. For example, either of CGST & SGST/UTGST or IGST will be mandatory. <i>As this is conditional mandatory, it is marked as 'optional'</i>
A.1.3.3	CGST_Am_Total	0..1	Total CGST Amount	Optional	Number (Max length: 14,2)	65.45	Total CGST amount for the invoice. Appropriate taxes based on rule will be applicable. For example, either of CGST & SGST/UTGST or IGST will be mandatory. <i>As this is conditional mandatory, it is marked as 'optional'</i>

A.1.3.4	SGST_UTGST_Amt_Total	0..1	Total SGST/UTGST Amount	Optional	Number (Max length : 14,2)	65.45	Total SGST/UTGST amount for the invoice. Appropriate taxes based on rule will be applicable. For example, either of CGST & SGST/UTGST or IGST will be mandatory. <i>As it is conditional mandatory, it is marked as 'optional'</i>
A.1.3.5	Comp_Cess_Amt_Total	0..1	Total Compensation Cess Amount	Optional	Number (Max length : 14,2)	24.95	Total GST Compensation Cess amount for the invoice (<i>ad valorem as well as non-ad valorem</i>)
A.1.3.6	State_Cess_Amt_Total	0..1	Total State Cess Amount	Optional	Number (Max length : 14,2)	5.45	Total State cess amount for the invoice (<i>ad valorem as well as non-ad valorem</i>)
A.1.3.7	Discount_Amt_Invoice_Level	0..1	Invoice Level Discount Amount	Optional	Number (Max length: 14,2)	100.00	This is Discount Amount, if any, applicable on total invoice value
A.1.3.8	Other_Charges_Invoice_Level	0..1	Other Charges (Invoice Level)	Optional	Number(Max length: 14,2)	200.00	This is Other charges, if any, applicable on total invoice value
A.1.3.9	Round_Off_Amount	0..1	Round Off Amount	Optional	Number (Max length: 2,2)	31.21	This is round off amount of total invoice value
A.1.3.10	Total_Invoice_Value_INR	1..1	Total Invoice Value in INR	Mandatory	Number (Max length: 14,2)	745249678.50	The total value of invoice including taxes/GST and rounded to two decimals maximum.
A.1.3.11	Total_Invoice_Value_FCNR	0..1	Total Invoice Value in FCNR	Optional	Number (Max length: 14,2)	\$5729,65	The total value of invoice in Additional Currency

A.1.3.12	Paid_Amount	0..1	Paid Amount	Optional	Number (Max length:14,2)	8463.50	The amount, if any, which has been paid in advance. It must be rounded to maximum 2 decimals.
A.1.3.13	Amount_Due_	0..1	Amount Due	Optional	Number (Max length:14,2)	98789.50	The outstanding amount due for payment. It must be rounded to maximum 2 decimals.
A 1.4	Batch Details	0..1		Optional			Header for Annexure A 1.4: Batch Details
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specific ations	Sample Value	Explanatory Notes
A.1.4.1	Batch_Number	1..1	Batch Number	Mandatory	String (Max Length: 20)	673927	Certain set of manufacturers may mention batch number details. <i>(This field is mandatory only if this section is selected)</i>
A.1.4.2	Batch_Expiry_Date	0..1	Batch Expiry Date	Optional	String (DD/MM/YYYY)	21/11/2019	Expiry Date of the Batch, if any
A.1.4.3	Warranty_Date	0..1	Warranty Date	Optional	String (DD/MM/YYYY)	21/11/2019	Warranty date for the Item, if any.
A 1.5	Attribute Details of Item	0..n		Optional			Header for Annexure A 1.5: Attribute Details of Item
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specific ations	Sample Value	Explanatory notes
A.1.5.1	Attribute_Name	0..1	Attribute Name	Optional	String (Max Length: 100)	Colour	Attribute Name of the item.
A.1.5.2	Attribute_Value	0..1	Attribute Value	Optional	String (Max Length: 100)	Red, green, etc.	Attribute Value of item.”.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610(E), dated the 19th June, 2017 and last amended vide notification No. 58/2020 - Central Tax, dated the 01st July, 2020, published vide number G.S.R. 426(E), dated the 01st July, 2020.

[Published in the Gazette of India dated 30-7-2020]



(13) Notification u/s 48(4) of CGST Sct, 2017 amending Notification No. 13/2020-Central Tax dated 21-3-2020 in order to amend the class of registered persons for the purpose of e-invoice

No. 61/2020-Central Tax

G.S.R. 481(E). New Delhi, Dated 30th July, 2020 - In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, hereby makes the following amendments in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.13/2020 - Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 196(E), dated the 21st March, 2020, namely:-

In the said notification, in the first paragraph,

- (i) before the words “those referred to in sub-rules”, the words “a Special Economic Zone unit and” shall be inserted;
- (ii) for the words “one hundred crore rupees”, the words “five hundred crore rupees” shall be substituted.

Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide notification No. 13/2020-Central Tax, dated the 21st March, 2020, published vide number G.S.R. 196(E), dated the 21st March, 2020.

[Published in the Gazette of India dated 30-7-2020]



(14) Removal of pendency of registration application filed during COVID period

CBEC-20/06/11/2020-CST

Government of India, Ministry of Finance
Department of Revenue Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi Dated 17 July 2020

Subject: Removal of pendency of registration application filed during COVID period - reg.

Sub-section (10) of section 25 of the CGST Act, 2017 read with rule 9 of CGST Rules, 2017. provides for deemed approval of application of registration after a period of three working days, if the proper officer fails to take any action on the said application within the said period of three working days.

2. Strong apprehensions had been raised on possible mis-use of the deeming provision during the COVID lock down period, where either the central / state tax offices are closed or are functioning with skeletal staff. Since the lockdown applied across all establishments including those belonging to the Government (Central and State), during the lockdown period there being no 'working days', it had been decided that the deemed approval of application of registration would not be granted on the portal with effect from 25th March, 2020. Accordingly, deemed approvals had been held up. However, since the lockdown is over in most of the areas and offices are open since 1st June 2020, as informed in the video conference by Member GST on 26th June 2020, deemed approvals have been granted for all those applications pending as on 30-6-2020, which had not been processed till 15th July 2020.

3. It has been further decided that the applications received thereafter which remain pending as on 28-7-2020 shall be deemed approved on 31-7-2020 and the 3 days deemed approval of application of registration would be resumed from 01st August, 2020. Accordingly, it is requested that all the pending applications of registration be disposed of, on or before 30st July, 2020 as a special drive. In this regard, necessary administrative instructions may please be issued to all the proper officers under your jurisdiction to liquidate the pending applications before the deemed approval of registration

gets resumed. You may also monitor them on a daily basis till 28-7-2020, so that the pendency is liquidated.

4. It is also noticed that during the lock down period also, a few registration applications have been deemed approved on the portal because of technical glitches. GSTN has been requested to forward the list of such GSTINs who got deemed approval during the lockdown to the jurisdictional officers. In such cases, where ever required, proper officers may get the physical verification of business premises done.

(Yogendra Garg) Principal Commissioner

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(15) अल्कोहल आधारित हैंड सैनिटाइज़र पर जीएसटी दर के मुद्दे पर स्पष्टीकरण

पत्र सूचना कार्यालय, भारत सरकार, वित्त मंत्रालय

15 जुलाई, 2020, 4:46 पीएम

मीडिया के कुछ भागों में अल्कोहल आधारित हैंड सैनिटाइज़र पर जीएसटी दर के मुद्दे पर रिपोर्ट आई है।

ऐसा कहा गया है कि हैंड सैनिटाइज़र पर 18% की दर से जीएसटी लिया जा रहा है। सैनिटाइज़र साबुन, एंटी-बैक्टीरियल तरल, डेटॉल आदि जैसे कीटाणुनाशक हैं जिन पर जीएसटी व्यवस्था के तहत 18 प्रतिशत की मानक दर लगती है। विभिन्न वस्तुओं पर जीएसटी की दरें जीएसटी परिषद द्वारा तय की जाती हैं जहां केंद्र सरकार और सभी राज्य सरकारें एक साथ विचार-विमर्श करती हैं और निर्णय लेती हैं।

यह आगे स्पष्ट किया जाता है कि हैंड सैनिटाइज़र के निर्माण में लगने वाली सामान में रसायन पैकिंग सामग्री, सामग्री (इनपुट) सेवाएं हैं जिन पर 18 प्रतिशत की जीएसटी दर लगती है। सैनिटाइज़र और इसी तरह की अन्य वस्तुओं पर जीएसटी की दर को कम करने से उल्टे शुल्क ढांचे (इनवर्टेड इयूटी स्ट्रक्चर) को बढ़ावा मिलेगा और इससे घरेलू निर्माताओं के साथ-साथ आयातक भी नुकसान की स्थिति में आ जाएंगे। कम जीएसटी दरों से आयात सस्ती हो जाती है। यह आत्म-निर्भर भारत की राष्ट्रीय नीति के खिलाफ है। यदि घरेलू विनिर्माण को उल्टे शुल्क ढांचे (इनवर्टेड इयूटी स्ट्रक्चर) के कारण नुकसान होता है तो उपभोक्ता भी कम जीएसटी दर से लाभान्वित नहीं होंगे।

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(16) Burning Issues in GST at Ground Level

- Sudhir Halakhandi

1. GST is not a Simple and Single Tax though it was promised as a simple tax. Practically if we compare it with the earlier regime of indirect Taxation, at present it is not a simple tax.

One Nation One Tax - Three taxes are there. SGST, CGST and Procedural IGST Like VAT, Service Tax and Central Excise!!

Two Departments are there!!!! SGST and CGST Like VAT and Central Excise Department!!!

One Nation One Tax - Why so many AARS (Advance Ruling Authorities)?

2. GST is not supported by a Reliable IT System. GSTN is not equipped with the adequate speed and capacity. It is a failure since inception.
3. The Procedures are too hard to follow and are not user friendly. Too hard procedure means low compliance and low Tax.
4. So Many Circulars, Notifications and Clarifications have made it a volatile Law. Even the law is governed by twitter also. Why? Is there any need to redraft the Law at this early stage ?
5. No revision / amendment facility in mail GST Return - 3B. Why? Why so rigidity in this matter. It is the biggest procedural Mistake of GST creating lot of problems.
6. Strict procedures for ITC - The restrictions in Section 16(4) and Rule 36(4) are not practical. Artificial restrictions on ITC in the form of Blocked credit under section 17(5). What is the Logic?

Where is seamless flow of ITC?

7. Too Much human intervention will be there at the time of assessment due of lack of explanation facility in Annual return –

This is not good for future of GST.

Annual return is not adequately drafted to support the assessments.

8. A late fee is a big issue and when GST is on trial and error basis and network is not supporting then where the place is of Late fees.

Further when Late fees are condoned for a particular period then it should be returned to the dealers who have paid it for the same period.

When Late fees is condoned or reduced why it is not done for Composition Dealers and also for Closure return GSTR-10?

9. Interest - Why 18% or 24% rate when rate of Interest is decreasing day by day. FDR-5% and Loan-9% then why here the rate is so High!!!! Change it with the Time.

Why they want to charge interest beyond the date of deposit till the date of set off in GSTTR-3B.

10. The recommendations of GST Council are not implemented within reasonable time. Why?
11. So many useless Returns- ITC-04, GSTR-10, GSTR-9A (GSTR-4 is there) etc..
12. RCM!!!!



(17) Clarification on issue of GST rate on alcohol based hand sanitizers

Press Information Bureau
Government of India, Ministry of Finance

15-July-2020, 4:46 PM

The issue of GST rate on alcohol based hand sanitizers has been reported in few sections of media.

It is stated that hand sanitizers attract GST at the rate of 18%. Sanitizers are disinfectants like soaps, anti-bacterial liquids, dettol etc which all attract duty standard rate of 18% under the GST regime. The GST rates on various items are decided by the GST Council where the Central Government and all the state governments together deliberate and take decisions.

It is further clarified that inputs for manufacture of hand sanitizers are chemicals packing material, input services, which also attract a GST rate of 18%. Reducing the GST rate on sanitizers and other similar items would lead to an inverted duty structure and put the domestic manufacturers at disadvantage vis-a-vis importers. Lower GST rates help imports by making them cheaper. This is against the nation's policy on Atmanirbhar Bharat. Consumers would also eventually not benefit from the lower GST rate if domestic manufacturing suffers on account of inverted duty structure.



**(18) साक्षात्कार श्री एस.के. शर्मा साहब पूर्व
अपर आयुक्त विक्रय कर/ वाणिज्यिक
कर**



किंवदन्ती का आशय उस कथा से होता है जो लम्बे समय से लोक में कही सुनी जा रही हो भले उसमें विश्वसनीयता न हो या कम हो और यह बिरला संयोग होता है यदि कोई ऐसी किंवदन्ती हमारे बीच उपस्थित हो। सौभाग्य से हमारे बीच श्री एस.के. शर्मा साहब जैसे किंवदन्ती पुरुष मौजूद हैं जो स्वयं विश्वास व्यक्तित्व हैं तथा जो मध्यप्रदेश के वाणिज्यिक कर विभाग (पूर्व के विक्रय कर विभाग) के जन्म से उसकी आज तक की यात्रा के मुखर साक्षी हैं।

श्री एस.के. शर्मा साहब का प्रेरक व्यक्तित्व और कृतित्व दशकों तक न केवल विभागीय कर्मचारियों और अधिकारियों के लिये प्रेरणा का पुंज रहा है अपितु उन सबके लिये भी मार्गदर्शक ज्योति स्तम्भ के रूप में विद्यमान रहा है जो उनके सान्निध्य में रहे हैं तथा आज भी उनके कृतित्व की आलोक किरणें हमारे जीवन आंगन को आलोकित कर रही हैं।

वे विभाग का जागृत इतिहास हैं और भविष्य के प्रेरणा सूर्य। ऐसे अप्रतिम यात्रा पुरुष की यात्रा के तमाम पड़ावों से उनकी स्वयं की लेखनी के माध्यम से रूबरू होना कहीं अपने आपको सम्पन्न और समृद्ध करना होगा।

टैक्स लॉ डिजीजन्स आदरणीय शर्मा साहब की इस यात्रा से आपको साक्षात् कराते स्वयं को गौरवान्वित अनुभव करता है। हम समय-समय पर ऐसे व्यक्तित्वों से आपको भविष्य में भी रूबरू कराते रहेंगे।

प्रस्तुत है विभाग के पितामह कहे जाने वाले आदरणीय श्री शर्मा साहब से बातचीत के कुछ अंश :

प्रेरणा



सीए. सुधीर हालाखंडी

सहयोग- श्री राघवेन्द्र दुबे

से.नि. अपर आयुक्त, वाणिज्यिक

कर एवं से.नि. लेखापाल सदस्य,

म.प्र. वाणिज्यिक कर अपील बोर्ड

आदर सहित, नीलेश गंगराडे

प्र.1: वर्तमान में कोरोना काल चल रहा है अतः शुरुआत यहीं से करते हैं। आपने जीवन का एक लंबा सफर तय किया है कोरोना एवं लॉकडाउन का अनुभव कैसा रहा है?

शर्मा सा.: कोरोना काल और लॉकडाउन का अनुभव मेरे लिए ज्यादा मायने नहीं रखता क्योंकि मैं तो आजकल रिटायर्ड लाइफ जी रहा हूँ। मैं पहले भी ज्यादा बाहर नहीं जाता था और अभी भी नहीं जा रहा हूँ। बच्चों के साथ रहता हूँ। छत पर ही घूम लेता हूँ और घर पर ही एक्सरसाइज कर लेता हूँ। काफी खुली जगह है छत पर तो ऐसी कोई समस्या नहीं है। हां, लेकिन मैंने देखा कि सबका कामकाज बंद हो गया है और सभी लोग परेशान हैं।

प्र.2: चलते हैं आपके बचपन की ओर आप की जन्मस्थली और प्रारंभिक शिक्षा कहां हुई, पारिवारिक पृष्ठभूमि क्या थी ?

शर्मा सा.: हम लोग रहने वाले हरियाणा के हैं, 100 साल के पहले रायगढ़ आ गए थे और मेरा जन्म सन् 1937 में रायगढ़ (छत्तीसगढ़) में हुआ। तीसरी कक्षा तक मैंने रायगढ़ में पढ़ाई की और चौथी कक्षा से मेरे चाचा के यहां हरियाणा चला गया वहां भी चौथी तक ही स्कूल था और मैंने चौथी की परीक्षा गांव से ही दी। उसके बाद गांव से 5 किलोमीटर दूर कलंगा गांव में पढ़ाई की, रोज पैदल जाते थे और पैदल ही आते थे।

1946 से 1948 तक कलंगा गांव में ही पांचवीं और छठवीं की परीक्षा पास की और सन् 1947 में भारत का विभाजन हो गया और वहां से जनसंख्या का पलायन शुरू हो गया। हिंदू लोग वहाँ आना शुरू हो गए और मुसलमान वहाँ से जाना शुरू हो गए। यह सब हमारे गांव की सड़क से दिखता था। हमने विभाजन का दौर देखा है जब हम स्कूल से आते थे तो भय व्याप्त होता था क्योंकि आस-पास के गांव में दंगे फसाद होते रहते थे इसलिए हम लोग छुपते-छुपाते आते जाते थे।

सन् 1948 में हमारे गांव में ही आठवीं की परीक्षा दी क्योंकि वहीं पर स्कूल खुल गया था और उसके बाद मैं वापस रायगढ़ आ गया। इसके बाद 1949 से 1953 तक रायगढ़ में ही नगर पालिक स्कूल में शिक्षा प्राप्त की। उन दिनों 11 क्लास की मैट्रिक होती थी, सन् 1953 में मैंने हायर सेकेंडरी जिसको मैट्रिक बोलते हैं मध्य प्रदेश बोर्ड से पास की। उसके बाद मैं सागर विश्वविद्यालय में इंटर साइंस कोर्स के लिए भर्ती हो गया पर स्वास्थ्य बिगड़ने के कारण वहां से वापस आ गया। बाद में घर ही रहा और फिर इंटरमीडिएट अजमेर बोर्ड से किया और 1955 में पास कर लिया।

सन् 1955 में ही मैं नागपुर चला गया। 1957 में मैंने बी.ए. पास कर लिया। 1956



में मध्य प्रदेश का विभाजन हो गया था इसलिए बी.ए. पास करने के बाद मैं जबलपुर आ गया। जबलपुर में मैंने एलएलबी ज्वाइन किया वहां 1 वर्ष पढ़ाई की उसके बाद मैंने एम.ए. इकोनॉमिक्स में ज्वाइन कर लिया। किसी कारण से मैं लॉ फाइनल की एग्जाम नहीं दे पाया पर एम.ए. प्रीवियस की परीक्षा दे दी।

उस समय विश्वविद्यालय में 2 डिग्री एक साथ ली जा सकती थी तो मैंने एम.ए. फाइनल और लॉ फाइनल दोनों एक साथ किया और 1960 में मैंने दोनों परीक्षाएं एक साथ पास कर ली। बाद में मेरा स्वास्थ्य बिगड़ने के कारण मैं 6 महीने तक घर पर ही रहा और मामाजी के यहां आसाम चला गया।

प्र.3: आपने यह नौकरी कैसे चुनी, किस वर्ष में आप इस विभाग में आए, क्या इसके पहले किसी और नौकरी में रहे ?

शर्मा सा.: आसाम में 1961 में टी गार्डन से संबंधित औद्योगिक इकाई में मुख्यतः अनुभव के लिए और सक्रिय रहने के लिए सीनियर मैनेजर की नौकरी ज्वाइन कर ली। लेकिन वहां की आबोहवा पानी-बारिश में ज्यादा सहन नहीं कर सका और दीपावली के बाद मैं वापस जबलपुर आ गया।

मैंने एलएलबी की प्रैक्टिस शुरू करने के लिए मध्यप्रदेश हाईकोर्ट में आवेदन किया क्योंकि उस वक्त यह आवेदन कोर्ट में ही लिया जाता था परंतु उसी समय बार काउंसिल का गठन हो गया था अतः मेरी एप्लीकेशन वापस आ गई और जवाब आया कि चूंकि स्टेट बार कौंसिल का गठन हो रहा है अतः आप बार को अप्लाई कीजिए। मैंने बार काउंसिल में आवेदन दे दिया। उन्हीं दिनों जनवरी 1962 के आसपास मैंने पेपर में एक ऐड देखी जिसमें विक्रय कर

अधिकारी के 5 पदों की नियुक्ति की जाना थी। मैंने उसमें अप्लाई कर दिया और मेरा मार्च में इंटरव्यू हुआ और मई 1962 में सिलेक्शन हो गया। जो 5 लोग सिलेक्ट हुए थे उसमें से नंबर एक पर मेरा नाम था।

अक्टूबर 1962 में मेरी नियुक्ति हुई और मैंने अन्य चारों चयनित अधिकारियों के साथ ट्रेनिंग स्कूल में ज्वाइन कर लिया। उन दिनों हम पांचों को इंदौर में जॉइनिंग दी गई।

प्र.4: आपने अपने जीवन के अनेक वर्ष इस विभाग में बिताए हैं, प्रारंभ में आप कहाँ रहे और विभाग में आपका सफर कैसे बढ़ता रहा ?

शर्मा सा.: इंदौर में ट्रेनिंग स्कूल में हमारी 3 महीने तक ट्रेनिंग चली उन दिनों फ्लाइटिंग स्क्वाड इंदौर पहली बार स्थापित हुआ था और फ्लाइटिंग स्क्वाड में भी मेरी 1 महीने की ट्रेनिंग हुई और जनवरी 1963 में आगे की ट्रेनिंग के लिए मैं जबलपुर आ गया।

जबलपुर में ट्रेनिंग लेने के बाद मेरी पहली पोस्टिंग शहडोल में विक्रय कर अधिकारी के रूप में हुई और 19-12-1963 को मैंने वहाँ पर ज्वाइन कर लिया।

1965 तक शहडोल में ही रहा उसके बाद मेरी पदस्थापना जबलपुर में वृत्त दो में विक्रय कर अधिकारी के रूप में हुई और 31 जुलाई 1968 तक मैं जबलपुर में ही रहा उसके बाद इंदौर वृत्त 3 में मेरी पद स्थापना हुई।

1970 तक मैं इंदौर में ही रहा और उसके बाद मेरी पदोन्नति अपर अपीलीय सहायक आयुक्त के रूप में इंदौर में ही हुई और एक महीना कार्य करने के पश्चात मेरा ट्रांसफर इंदौर मुख्यालय में हो गया।

8 सितम्बर 1970 को मैंने मुख्यालय में सहायक आयुक्त का पदभार ग्रहण किया। 20 जून 1971 तक मैं मुख्यालय में रहा उसके बाद मेरी पदस्थापना अपर अपीलीय सहायक आयुक्त ग्वालियर के रूप में हुई। 1 वर्ष तक कार्य करने के पश्चात मैं क्षेत्रीय अपर सहायक आयुक्त ग्वालियर के पद पर आसीन हुआ।

3 जून 1975 को क्षेत्रीय सहायक आयुक्त रायपुर के रूप में मेरी पदस्थापना हुई। 1975 से 1979 तक मैं रायपुर में ही रहा वहाँ से पदोन्नति प्राप्त कर मैं संभागीय उपायुक्त विक्रय कर इंदौर के पद पर आया और 1984 तक मैंने इसी पद पर कार्य किया।

तत्पश्चात मेरी पदोन्नति अपर आयुक्त के पद पर हो गयी और मैं 18-6-1984 से 5-7-1992 तक इंदौर में रहा और उसके बाद 14-7-1992 से 12-2-1993 तक मैं जबलपुर में रहा उसके पश्चात मेरे रिटायरमेंट तक यानी 31-10-1995 तक मैं इंदौर में ही अपर आयुक्त

विक्रय कर/वाणिज्यिक कर के रूप में अपनी सेवाएं प्रदान करता रहा।

प्र.5: आपने विभाग में कई उतार-चढ़ाव देखे हैं, इन परिवर्तनों को आपने कैसे महसूस किया ?

शर्मा सा.: मेरी जब पदस्थापना हुई थी तब उस समय क्योंकि मध्य प्रदेश नया राज्य बना था। सभी स्टेट का इंटीग्रेशन होना बाकी था और स्टेट के भिन्न क्षेत्र मध्य भारत, महाकौशल और विंध्य प्रदेश अलग-अलग क्षेत्र थे। महाकौशल तथा विंध्य क्षेत्र में मध्य प्रदेश विक्रय कर अधिनियम लागू था तथा मध्य भारत क्षेत्र में मध्य भारत जनरल सेल्स टैक्स अधिनियम लागू था। शुरू में जब मैंने काम किया तो जबलपुर में ही रहा तो विक्रय कर का काम करना पड़ा और जब मुख्यालय में आया तो पुराने प्रकरणों के निर्वर्तन हेतु मुझे मध्य भारत सामान्य विक्रय कर अधिनियम के साथ और कई निरसित अधिनियमों का अध्ययन करना पड़ा।

उसके बाद 1-9-1959 से नया मध्यप्रदेश सामान्य विक्रय कर अधिनियम, 1958 लागू हो चुका था और फिर उसी के अधीन कार्य प्रारंभ किया लेकिन जो भी पुराने प्रकरण बचे थे उनका निराकरण मेरे द्वारा पुराने अधिनियम के अंतर्गत किया गया।

सन् 1986 में मार्च के महीने में केंद्र शासन की ओर से अमेरिका में इंटरनल रिवेन्यू सर्विस (इनकम टैक्स विभाग) द्वारा आयोजित एक महत्वपूर्ण सेमिनार और ट्रेनिंग में भाग लेने हेतु दो अधिकारियों के नाम मांगे गए थे। विभाग से दो अधिकारियों का चयन किया जाना था। उसमें हमेशा इनकम टैक्स विभाग के अधिकारी ही जाया करते थे। चूंकि शासन द्वारा विभाग से नाम मांगे गए थे इसलिए आयुक्त ने अनुशंसा कर मेरा नाम राज्य शासन को भेजा।

शासन ने मेरा नाम स्वीकृत कर दिया और मैं ट्रेनिंग के लिए अक्टूबर 1986 में विभाग की ओर से अमेरिका गया। वहां पर डेढ़ महीने तक ट्रेनिंग प्राप्त की जो मुख्य रूप से इनकम टैक्स, बिजनेस मैनेजमेंट और विक्रय कर के संबंध में थी। ट्रेनिंग पूर्ण करके मैं दिसंबर के प्रथम सप्ताह में भारत वापस आ गया।

राज्य में हुए चुनावों के पश्चात् कांग्रेस सत्ता में आयी और उन्होंने तय किया कि विक्रय कर, जाँच चौकी, फ्लाइंग स्क्वॉड एवं निरीक्षकों के निरीक्षण के अधिकार समाप्त किये जाएं। विभाग को तदनुसार आदेश दिए गए। चूंकि विक्रय कर को समाप्त करने से राज्य को काफी वित्तीय क्षति होती इसलिए हम लोगों ने विक्रय कर के स्थान पर वाणिज्यिक कर लगाने का सुझाव दिया, जिसे शासन ने मान्य कर लिया।

इसके बाद मैंने और बोरकर दोनों ने मिलकर वाणिज्यिक कर अधिनियम तथा नियमों की ड्राफ्टिंग की। इसमें मुख्य रोल बोरकर का ही था लेकिन मेरा उसमें मार्गदर्शन रहता था



और पूरा ड्राफ्ट तैयार करके हमने शासन को प्रेषित कर दिया ।

शासन ने ड्राफ्ट विधि विभाग में भेजा और विधि विभाग ने यह जानकारी प्रेषित की, कि राष्ट्रपति की स्वीकृति आवश्यक है । फिर मुझे सुप्रीम कोर्ट एडवोकेट से एडवाइज लेने के लिए भेजा गया कि क्या किया जाए तो उनके द्वारा भी यही बताया गया कि राष्ट्रपति की मंजूरी आवश्यक है और राष्ट्रपति के अनुमोदन के पश्चात ही इसको लागू किया जा सकता है ।

ड्राफ्ट किये गए बिल के अनुमोदन हेतु मुझे कई बार दिल्ली जाना पड़ा । भारत सरकार के विधि विभाग को सारी जानकारी देना पड़ी फिर केंद्र के जिस-जिस विभाग में फाइल गई वहां पर जाकर मेरे द्वारा क्लियर करवाई गई और अंततः वहां से अनुमोदन करवा कर फिर यहां पर ले आए ।

उसके बाद जब बिल पारित हुआ तो फिर वही प्रक्रिया दोबारा अपनानी पड़ी और कई बार दिल्ली जाना पड़ा और जब दिल्ली से अनुमति मिल गई तब मध्यप्रदेश में वाणिज्यिक कर अधिनियम, 1994 लागू किया गया ।

इसमें एक सबसे बड़ी बात यह थी कि फ्लाईंग स्क्वायड, चेक पोस्ट तथा निरीक्षकों के निरीक्षण के अधिकार समाप्त कर दिए गए थे । यही इस नवीन अधिनियम का विशेष आकर्षण था हालांकि इसका विभाग में बहुत विरोध हुआ यह भी बात हुई कि हम लोगों के साथ बहुत ज्यादाती हो रही है लेकिन फिर भी शासन का आदेश था तो ऐसा करना ही था । नवीन अधिनियम लागू हो गया ।

प्र.6: आप सेवानिवृत्ति के बाद छत्तीसगढ़ शासन को भी अपनी सेवाएं देते रहे वहां का आपका अनुभव कैसा रहा ?

शर्मा सा.: रिटायरमेंट के बाद मैंने चेंबर से ही प्रैक्टिस प्रारंभ की क्योंकि मैं एडवोकेट की सनद प्राप्त कर चुका था और ऑफिस में ही सलाह दिया करता था ।

उसके बाद 1999 में वैल्यू ऐडेड टैक्स की चर्चा होने लगी । जब मैं विभाग में था तब हम कार्यालयीन कार्य से दिल्ली जाया करते थे तो इस बारे में पहले से ही चर्चा तथा अध्ययन किया करते थे और फिर जानकारी प्राप्त हुई कि अब वैल्यू ऐडेड टैक्स लागू किया जाना है ।

तत्कालीन आयुक्त जैमिनी शर्मा द्वारा मुझसे और बोरकर से संपर्क किया और वैल्यू ऐडेड टैक्स ड्राफ्ट करने बाबत प्रस्तावित किया जिसके तहत हम दोनों ने इसकी ड्राफ्टिंग प्रारंभ की और हमने विभागीय अधिकारियों से चर्चा परामर्श करने के पश्चात् अंतिम ड्राफ्ट विक्रय कर आयुक्त को प्रेषित किया और इसी के आधार पर मध्य प्रदेश में बाद में वैल्यू ऐडेड टैक्स लागू किया गया ।

इसी बीच में छत्तीसगढ़ राज्य शासन का गठन हो गया था । चूंकि वह नया राज्य था और सभी अच्छे अधिकारी जो टेक्निकली स्ट्रांग थे यहीं पर रह गए थे । छत्तीसगढ़ शासन ने मुझसे संपर्क किया कि क्या आप यहां आ सकते हैं, मैंने यह कहा कि मैं कुछ समय के लिए ही आ सकता हूं तो शासन का जवाब आया कि आपको यहां लंबे समय के लिए आना पड़ेगा और हमारे तकनीकी कक्ष को आपको सुपरवाइज करना पड़ेगा ।

मैंने हां कर दी और उसके बाद बात कुछ आगे बढ़ी नहीं, क्योंकि तत्कालीन सचिव सह विक्रय कर आयुक्त का स्थानांतरण हो गया था जिसके स्थान पर श्री डी.एस. मिश्रा छत्तीसगढ़ राज्य के सचिव सह आयुक्त हो गए थे । मध्य प्रदेश में अपर आयुक्त रहे डी.एस. मिश्रा छत्तीसगढ़ के वाणिज्यिक कर आयुक्त हो गए थे तब उन्होंने मुझसे संपर्क किया और वैल्यू ऐडेड टैक्स के ड्राफ्ट तथा अन्य तकनीकी कार्य हेतु छत्तीसगढ़ शासन को सलाहकार के रूप में सेवाएं देने के लिए प्रस्ताव भेजा ।

मैंने उनका प्रस्ताव स्वीकार कर लिया और फरवरी 2002 में कार्य प्रारंभ कर दिया । चूंकि छत्तीसगढ़ में मध्य प्रदेश के अनुरूप ही अधिनियम आदि लागू थे इसलिए मैंने मध्य प्रदेश के अनुरूप ही परिवर्तन करते हुए बिल ड्राफ्ट किया । इसे भी राष्ट्रपति के अनुमोदन हेतु दिल्ली भेजा गया । इसके लिए भी मुझे कई बार दिल्ली जाना पड़ा और केंद्र शासन के अधिकारियों को स्थिति स्पष्ट कराना पड़ी । विधानसभा में भी जब बिल पेश किया गया तब वहां भी मुझे रहना पड़ा और मंत्री जी को और सेक्रेटरी को ब्रीफिंग करनी पड़ी ।

इसके बाद छत्तीसगढ़ में मूल्य संवर्द्धित कर, 2005 लागू हो गया और समय-समय पर जो भी कठिनाइयां आती रहीं उनके निराकरण के लिए मुझे वहीं पर रहना पड़ा। मैं 31 मार्च 2008 को इस कार्य से सेवानिवृत्त हो गया और अपने सुपुत्र के पास यूएस चला गया।

2009 में फिर छत्तीसगढ़ के अतिरिक्त आयुक्त द्वारा मुझसे संपर्क किया गया कि जीएसटी लागू होने वाला है तो उसके संबंध में आप अपनी सेवाएं प्रदान करें और 1 अप्रैल 2010 को मैंने जीएसटी के लिए छत्तीसगढ़ में एक सलाहकार के रूप में विभागीय अधिकारियों को जो भी कठिनाई आए उसके निराकरण के लिए फिर से कार्य ग्रहण कर लिया।

जी.एस.टी. पर चर्चा हेतु दिल्ली में इम्पॉवर्ड कमेटी की जो भी मीटिंग होती थी उसमें मैं विभागीय अधिकारियों के साथ वहां पर उपस्थित होता था और विभाग की ओर से सुझाव प्रेषित करता था और प्रश्नों का समाधान भी किया करता था।

2015 में मैंने पूर्ण सेवानिवृत्ति का मन बनाया और फिर इंदौर आ गया। सन् 2011 में ही संविधान संशोधन का बिल पेश हो चुका था उसमें हम लोगों के कमेंट्स लिए थे और मेरे वापस आने के बाद ही संविधान संशोधन अधिनियम पारित हुआ। जी.एस.टी अधिनियम एवं रूल्स की ड्राफ्टिंग में मुख्य रूप से केंद्रीय उत्पाद शुल्क के अधिकारियों का ही रोल रहा। लेकिन इसके बारे में काफी कुछ चर्चा और रूपरेखा मेरे कार्यकाल के दौरान ही बन चुकी थी और उसी को यथा परिवर्तित करते हुए केंद्रीय उत्पाद शुल्क के अधिकारियों द्वारा बाद में संशोधित किया गया।

जीएसटी की शुरुआत में मेरा मुख्य रोल रहा। जी.एस.टी. के सम्बन्ध में छत्तीसगढ़ शासन की ओर से जो-जो सुझाव भेजे गए उनमें मेरी सहभागिता रही।

प्र.7: आपने जीएसटी पर भी काफी कार्य किया है, वर्तमान में जो विधान लागू है क्या वह जीएसटी के मूलभूत सिद्धांतों की पूर्ति करता है?

शर्मा सा.: सिद्धांतों की पूर्ति तो करता है, परन्तु उसमें क्या हो गया है कि दरअसल बहुत सारी क्लिष्टतायें आ गई हैं। असल में इसका मूल उद्देश्य यह था कि यह सिम्पल होगा लेकिन इसमें बहुत सारी कठिनाइयां आ गई हैं। समय सीमा कम होने के कारण अनुपालन में दिक्कत आती है। छोटे-छोटे व्यवसायियों को परेशानियों का सामना करना पड़ता है हालांकि उन्होंने कोशिश की है कि छोटे व्यवसायियों को कंपोजिशन में लिया जाए लेकिन इसके बारे में लोगों को ज्यादा जानकारी ना होने से परेशानी का सामना करते हैं।

इसमें दिक्कतें तो बहुत हैं क्योंकि असल में इसका जो प्रारूप लाया गया था, जिस उद्देश्य से इसे लाया गया था वह उद्देश्य अभी सफल होता नहीं दिख रहा और दूसरी एक बात यह

भी है कि कर अपवंचन रोकने का जो प्रयास था वह पूरी तरह से रुका नहीं है और रुकना संभव भी नहीं लगता ।

कुछ व्यक्तियों ने फर्जी फर्म बनाकर इनपुट टैक्स क्रेडिट का लाभ ले लिया जिसके वे पात्र नहीं थे । इससे काफी बड़ी मात्रा में कर अपवंचन हुआ है । प्राप्त जानकारी के अनुसार यह राशि करोड़ों में है ।

इस विषय को देखने की आवश्यकता है हालांकि काफी हद तक जीएसटी लागू करने का उद्देश्य पूरा होता दिख रहा है लेकिन यह अभी पूरा नहीं हुआ है ।

जो मुख्य उद्देश्य सरलता रखा गया था वह अभी पूरा होता नहीं दिख रहा है । सबसे बड़ी कठिनाई यह है कि भारत इतना बड़ा देश है और प्रत्येक राज्य की अलग-अलग मान्यताएं हैं । किसी वस्तु का महत्व किसी राज्य में है, और किसी वस्तु का महत्व किसी राज्य में । सभी वस्तुओं पर एक ही कर दर रखा जाना बड़ा मुश्किल लगता है सबसे बड़ी कठिनाई यही आ रही है कि समान दर वस्तुओं पर नहीं रखा जा पा रहा है यह संभव है भी नहीं है क्योंकि फेडरल स्टेट है ।

इसका भी कुछ रास्ता ढूंढना चाहिए कि यह कम से कम किस तरह से करें । यही दो तीन ज्वलंत मुद्दे हैं जिनसे दिक्कत हो रही है । सबसे बड़ी दिक्कत है पब्लिक को कॉन्फिडेंस में लेना । अभी भी जो व्यवसायियों पर अविश्वास किया जा रहा है इस मनोवृत्ति को भी परिवर्तित किया जाना चाहिए ।

जब सिस्टम में सारी जानकारी आ जाएगी कि कौन सा माल कहां जा रहा है, कैसे जा रहा है तो जैसे इनकम टैक्स में करदाता को कार्यालय जाने की आवश्यकता नहीं रहती उसी तरह की स्थिति यहां भी अपेक्षित है तो काफी हद तक इसमें सरलता आ जाएगी । सर्वर का बार-बार हैंग होना भी व्यापारियों एवं कर सलाहकारों के लिए सिरदर्द बना हुआ है इसका शासन को शीघ्र निराकरण करना चाहिए ।

प्र.8: आपकी दृष्टि में विक्रय कर, वाणिज्यिक कर, वेट, जीएसटी इन विभिन्न विधाओं में कौन सी कर प्रणाली अधिक सुगम और कारगर रही है?

शर्मा सा.: जीएसटी को विकसित होने में अभी थोड़ा समय और लगेगा लेकिन यह नहीं कहा जा सकता कि यह अच्छा नहीं है । यह सिस्टम अच्छा है और अच्छी तरह काम करेगा । बार-बार परिवर्तन करने से अच्छा है कि जीएसटी को ही निरंतर चलने दिया जाए । इसके पहले जो विक्रय कर अधिनियम, वाणिज्यिक कर अधिनियम, मूल्य संवर्द्धित कर लागू थे, उनके भी अपने-अपने गुण अवगुण थे । उनमें भी अच्छाइयां थीं और खामियां भी थीं और वर्तमान कर

प्रक्रिया में भी कुछ अच्छाइयां हैं और कुछ खामियां हैं। जीएसटी में अच्छाइयां ज्यादा हैं परन्तु खामियां भी हैं। खामियों को दूर करने पर यह बहुत अच्छा कर सिद्ध होगा। बहुत बड़े-बड़े विद्वान इस कार्य को संभाल रहे हैं और इसकी खामियों को दूर करने पर यह बहुत अच्छी कर प्रणाली सिद्ध होगी।

जीएसटी को लागू करने का उद्देश्य यह था कि भारत के निर्यातक अंतर्राष्ट्रीय व्यवसाय में प्रतिस्पर्धा कर सकें और बिना किसी कर भार के वस्तुओं का निर्यात कर सकें। इन उद्देश्यों की पूर्ति हो रही है। लेकिन देश के छोटे व्यवसायियों को जो कठिनाइयां हो रही हैं उनका समाधान शीघ्र हो जावे तो जीएसटी से अच्छा कोई कर नहीं है। यह बहुत ही अच्छी कर प्रणाली है इसमें कोई दो राय नहीं है।

प्र.9: वर्तमान में कराधान से जुड़े सलाहकारों, अधिकारियों को आप क्या मार्गदर्शन देना चाहेंगे?

शर्मा सा.: मेहनत करो और पढ़ाई करो। सबसे बड़ी बात है जो भी आप काम कर रहे हो उसमें आपको तकनीकी ज्ञान पूरा होना चाहिए और अधिनियम की और कानून की पूरी जानकारी होना चाहिए तब आप स्वतंत्रतापूर्वक काम कर सकते हैं। इसके लिए आपको सतत और निरंतर अध्ययन की आवश्यकता है और आपस में चर्चा भी करते रहना पड़ेगा।

□

(19) एक पेज में.... 'नेचुरल जस्टिस'



जी.एस. बघेल

कर सलाहकार एवं सेवानिवृत्त अपर आयुक्त वाणिज्यिक कर

कर से संबंधित किसी भी कानून को लागू करने में जो सिद्धांत एवं मापदण्ड अपनाए जाने चाहिए वो उसी तरह के हैं, जो किसी अन्य कानून को लागू किये जाने में अपनाए जाते हैं। प्राकृतिक न्याय का सिद्धांत, जिसे हम अंग्रेजी में 'नेचुरल जस्टिस' के नाम से जानते हैं, कानून के संदर्भ में एक मूलभूत सिद्धांत है तथा कर संबंधी मामलों में भी उन सभी परिस्थितियों में लागू होता है जहां करदाता के ऊपर कोई वित्तीय भार निर्मित किया जा रहा है चाहे ऐसा भार करारोपण के कारण हो या फिर शास्ति आरोपित करके किया जा रहा हो।

इस सिद्धांत का मूल उद्देश्य यह है कि जिस प्राधिकारी को निर्णय लेने के लिए अधिकार

मिले हैं उसके द्वारा निर्णय लेते समय स्वयं को किसी भी प्रकार के पूर्वाग्रह से मुक्त रखना चाहिए तथा निर्णय लिये जाने में प्राधिकारी की व्यक्तिगत मंशा में किसी प्रकार की खोट नहीं दिखनी चाहिए। प्राधिकारी के स्तर से किसी प्रकार की जल्दबाज़ी या अधूरापन 'नेचुरल जस्टिस' का समुचित पालन नहीं होगा। यह सिद्धांत इसलिए लागू किया जाता है ताकि न्याय का प्रदाय सही ढंग से हो, ऐसा न हो कि दिया गया निर्णय न्याय के बदले अन्याय में परिवर्तित हो जाए। कर संबंधी कानून में करनिर्धारण एवं शास्ति आरोपित करने के लिए जो भी प्रक्रिया निर्धारित होती है उसमें प्राकृतिक न्याय के सिद्धांत का पालन निहित होता है। इसलिए यदि निर्धारित प्रक्रिया का पालन किया जाए तो नेचुरल जस्टिस के सिद्धांत का पालन अपने आप हो जाता है। इसलिए कर संबंधी मामलों में निर्णय लेने वाले किसी भी प्राधिकारी को संबंधित प्रक्रिया की सम्पूर्ण जानकारी होना आवश्यक है। अक्सर प्रक्रिया की समुचित जानकारी के अभाव में या जानकारी के प्रति बेपरवाह रहने के कारण प्राधिकारी के स्तर से ऐसी गलतियां होती हैं तथा नेचुरल जस्टिस का उल्लंघन हो जाता है।

प्राधिकारी से अपेक्षित है कि, अपना निष्कर्ष देते समय उसके द्वारा उन सभी तथ्यों और साक्ष्यों पर विचार किया जावे जो प्राधिकारी के समक्ष किसी अधिकृत स्रोत से आए हैं या करदाता द्वारा अपने पक्ष समर्थन में प्रस्तुत किये गये हैं। यह देखा जाता है कि कर संबंधी मामलों में ऐसे कई बिन्दु होते हैं जहां प्राधिकारी की करदाता से असहमति होती है किन्तु अपने निष्कर्ष पर पहुंचने के लिए प्राधिकारी द्वारा समुचित कारण दिये जाने से रह जाते हैं। ऐसी स्थिति में, कारण दिये बगैर, प्राधिकारी द्वारा निकाला गया निष्कर्ष नेचुरल जस्टिस के सिद्धांत के विरुद्ध होता है। कई बार जल्दबाज़ी में प्राधिकारी द्वारा करदाता को अपना पक्ष रखने का समुचित एवं पर्याप्त अवसर नहीं दिया जाता। यह बताए बगैर कि उसके द्वारा प्रस्तुत किस साक्ष्य को और क्यों अपर्याप्त पाया जा रहा है, संबंधित साक्ष्य को अस्वीकार कर दिया जाता है तथा उसके लिए समुचित कारणों का भी उल्लेख नहीं किया जाता है। कई बार केवल यह लिख दिया जाता है कि ऐसा साक्ष्य स्वीकार किये जाने योग्य नहीं है, किन्तु यह स्पष्ट नहीं किया जाता कि साक्ष्य की किस अपूर्णता के कारण उसे अमान्य किया जा रहा है। करदाता का पक्ष प्रस्तुत करने वाले प्रतिनिधि को भी यह सुनिश्चित करना चाहिए कि प्राधिकारी द्वारा उपलब्ध साक्ष्यों की विवेचना किस प्रकार से की जा रही है तथा हमेशा अपने लिखित तर्क में यह कहने से नहीं चूकना चाहिए कि यदि प्रस्तुत साक्ष्यों से असहमति हो तो करदाता को अतिरिक्त साक्ष्य प्रस्तुत करने के लिए समय दिया जाए। प्राकृतिक न्याय के सिद्धांत का पालन दोनों पक्षों की सतर्कता एवं सहयोग से ही संभव हो पाता है।



(20) Notification u/s. 3(4) and 3-A of M.P. Vat Act, 2002 superceeding notification No. (20) dated 11-2-2019 relating to appointment of Appellate Authority.

No. F-A-3-18-2018-1-V(45). Bhopal, Dated 29th July 2020 - In exercise of the Powers conferred by sub-section (4) of Section 3 and Section 3-A of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) and in supersession of this Departments Notification No.: F-A-3-18-2018-1-V-(20), Bhopal, the 11th February, 2019, the State Government, hereby, appoints the Officers mentioned in Column (2) of the Table below as Appellate Authority for the area specified in column (3) and confers the powers to dispose off the Appeal cases pending or arising Under Section 46 of the said act in the area. This responsibility shall be in addition to their present responsibilities :-

TABLE

S.No.	Name, Designation and present posting	Area
(1)	(2)	(3)
1.	Smt. Neha Meena, Addl. Commissioner, Commercial Tax, Office of the Commissioner, Commercial Tax, MP, Indore.	Zone Indore-01, Zone Indore-02
2.	Shri N.S. Maravi, Director, Commercial Tax, Office of the Commissioner, Commercial Tax, MP, Indore.	Zone Bhopal, Zone Gwalior, Zone Jabalpur

[Published in M.P. Rajpatra dated 29-7-2020]



[01] AAR-AP - Works contract - Composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017 - Applicant is not entitled for the benefit of concessional rate of GST @12%.

Ruling : The Applicant is not entitled for the benefit of concessional rate of GST @12% (6% under Central tax and 6% State tax) in terms of Notification No. 24/2017-Central Tax (Rate) dated 21-9-2017 read with Notification No. 31/2017-Central Tax (Rate) dated 13-10-2017.

The applicable rate of tax is 18% (9% under Central tax and 9% State tax) for the services referred by the Applicant.

Vijai Electricals Limited [19-12-2018] (AAR-AP)

[02] AAR-AP - Advance Ruling - Recipient - The applicant is recipient of the services and not supplier of such services - Accordingly the application is not liable for admission and therefore rejected.

Ruling : The application for Advance Ruling of M/s. Divisional Forest Officer, Logging Division, Chintur is rejected under sub-section 2 of Section 98 of the CGST Act, 2017 and the APGST Act, 2017.

Divisional Forest Officer, Logging Division [28-12-2018] (AAR-AP)

[03] AAR-AP - Liquidated Damages - GST on Liquidated Damages, and other penalties is covered under Schedule II entry No. 5(2)(e) vide HSN code 9997 – Other services

Ruling : For reasons as discussed in the body of the order, the questions are answered, as under, in terms of the contract for material supply and turnkey contract {for “Design, Engineering and Supply of all equipment including commission spares and Insurance Spares for Indoor LBDS, HVLC and Interplant Cabling for which copies were provided by the applicant as sample agreements and as per the applicant all contract terms contain similar provisions pertaining to “Liquidated Damages” and other penalties like “milestone penalties” levied on suppliers/ contractors.

1) Whether “Liquidated Damages” and other penalties like milestone penalties levied on suppliers/ contractors in the nature of making good the damages for any delays in supply of service or goods in the following cases are exigible to GST or not?

- (a) Supply and maintenance contracts
- (b) Project construction contracts

In terms of the aforesaid contract agreement, GST would be applicable on the Liquidated Damages.

2) If GST is applicable, the following may kindly be clarified

- (a) Whether the GST on Liquidated Damages, and other penalties is covered under Schedule II entry No. 5(2)(e) vide HSN code 9997 - Other services, for which the rate at 18% is relevant or any other entry is applicable?

In terms of the aforesaid agreement, schedule entry No. 35 of the Notification No. 11/2017-Central/State Tax (Rate) [as amended from time to time] for taxable services would cover the impugned levy of liquidated damages.

- (b) Liquidated damages are determined and imposed upon the contractor after in-depth study. In such case, what would be the time of supply? Will it be the period in which delay has occurred or it is the time when decision is taken or at the time when accounting entry for recovery is passed?

In terms of the aforesaid agreement, the clauses reveal that the levy of liquidated damages is, not when the delay is occurring but the liability of payment of these liquidated damages by the contractor will be established once the delay in successful execution of work is established on the part of the Contractor. This would define the time of supply.

- (c) When some part of the delay in supply has occurred before the implementation of the GST and some part of delay in supply has occurred after GST came into force, whether GST will be applicable to the Liquidated damages imposed for entire period of delay or it would be applicable only to the period falling after introduction of GST?

Sub-section (1) of section 13 of the GST Act provides that the liability to pay tax on services shall arise at the time of supply. In view thereof, as discussed in the answer to the Q.2(b), the agreement clauses would have to be referred to. Since no precise facts are before us, the section 14 of the GST Act would have to be referred to by the applicant.

Rashtriya Ispat Nigam Ltd. [11-1-2019] (AAR-AP)

[04] AAR-AP - Composite supply of works contract - The value of materials recovered on cost recovery basis by the Contractee from the R.A. bills issued by the applicant is includible in the taxable value of supply in terms of Section 15(2)(b) of the CGST Act, 2017.

Ruling : The Applicant is not entitled for the benefit of concessional rate of GST @12% (6% under Central tax and 6% State tax) in terms of Notification No. 24/2017-Central Tax (Rate) dated : 21-9-2017 read with Notification No. 31/2017-Central Tax (Rate) dated : 13-10-2017.

The applicable rate of tax is 18% (9% under Central tax and 9% State tax) for the services referred by the Applicant as per entry no. (ii) of S.No. 3 of the table of Notification No. 11/2017-Central Tax (Rate), Dated : 28th June 2017.

The value of materials recovered on cost recovery basis by the Contractee from the R.A. bills issued by the applicant is includible in the taxable value of supply in terms of Section 15(2)(b) of the CGST Act, 2017.

GVS Projects Pvt. Ltd. [30-1-2019] (AAR-AP)

[05] AAR-AP - Composite supply of works contract - Neither the contractee nor the stated works executed are “non-commercial” in the facts and circumstances as discussed above and the said stated works are taxable under GST.

Ruling : The Applicant is not entitled for the benefit of concessional rate of GST @12% (6% under Central tax and 6% State tax) for the stated works executed, in terms of Notification No. 24/2017-Central Tax (Rate) dated 21-9-2017 read with Notification No. 31/2017-Central Tax (Rate) dated 13-10-2017 or any other concessional rate. The applicable rate of tax is 18% (9% under Central tax and 9% state tax) for the services referred by the Applicant.

Whether a particular person is a Governmental authority or a Governmental Entity is to be decided in terms of the definition given in the Notification No. 31/2017 CT (Rate) by applying the facts of each case.

Neither the contractee nor the stated works executed are “non-commercial” in the facts and circumstances as discussed above and the said stated works are taxable under GST.

Sealwel Corporation Pvt. Ltd. [30-1-2019] (AAR-AP)

[06] AAR-AP - Services supplied by Electricity Distribution Utilities - Sl. No. 10A of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 - The services supplied by Electricity Distribution Utilities attract nil rate of tax - Whereas, the said entry do not prescribe any nil rate for the services supplied to the Electricity Distribution Utilities.

Ruling : The Applicant is not entitled for the benefit of NIL rate of GST under Sl.No. 10A of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, amended by notification No. 14/2018-Central Tax (Rate), dated 26-7-2018 for the stated works executed. The applicable rate of tax is 18% (9% under Central tax and 9% State tax) for the services referred by the Applicant. The remaining supplementary queries are also answered as discussed above.

Shirdi Sai Electricals Ltd. [30-1-2019] (AAR-AP)

[07] AAR-AP - Advance Ruling - Place of supply - Outside the purview of the Advance Ruling Authority.

Ruling : But the applicant, sought Advance Ruling in “Place of Supply” issue, which is outside the purview of the Advance Ruling Authority as per Section 97(2) of CGST Act, 2017.

Hence the application is not admitted under Sec 98 (2) of CGST Act, 2017 and APGST Act, 2017.

Tech Mech Global Interface Pvt. Ltd. [31-1-2019] (AAR-AP)

[08] AAR-AP - Aluminium ladders - Aluminium ladders come under HSN code 7616, “Other articles of Aluminium” and accordingly attract Tax rate of 18%.

Ruling : Irrespective of the end use of the ladders whether for domestic purpose or for Commercial use, Aluminium ladders come under HSN code 7616, “Other articles of Aluminium” and accordingly attract Tax rate of 18% (9% CGST+9% SGST).

Metro Aluminium [14-2-2019] (AAR-AP)

[09] AAR-AP - Input Tax Credit - Works contract - ITC eligible on GST paid on goods and services used as inputs in execution of “Works Contracts”.

1) Whether the applicant is eligible for Input Tax Credit (ITC) in respect of the GST paid on goods and services used as inputs in execution of “Works Contracts” specifically in execution of Road work contracts to Government Engineering Department.

2) If not, on which type of goods and services the ITC is not eligible.

Ruling : The Applicant is eligible for Input Tax Credit (ITC) in respect of the GST paid on goods and services used as inputs in execution of “**Works Contracts**”. Input Tax Credit restriction under section 17(5)(c) and 17(5)(d) will not apply to the applicant as his output is works contracts service.

KSR & Company [14-2-2019] (AAR-AP)

[10] AAR-AP - An importer is required to pay IGST under reverse charge mechanism on the ocean freight - There is no exemption available under the GST provisions for payment of IGST on ocean freight where IGST is paid on the goods imported.

Ruling : The transportation of goods in a vessel from a non-taxable territory to taxable territory amounts to import of service and such ocean freight is leviable to IGST as an inter-state supply of service and the Applicant, being the importer, are liable to pay IGST under reverse charge mechanism prescribed vide Notification No. 10/2017-Integrated tax (Rate) dated 28-6-2017, by following the valuation as per Notification No. 8/2017-Integrated Tax (Rate), dated 28-6-2017, irrespective of valuation adopted for the import of goods i.e. FOB or CIF.

The issues raised on double taxation, subsidies and cascading effect leading to accumulation of credit fall beyond the purview of Section 97 of CGST / APGST Act, 2017.

Indian Potash Ltd. [22-2-2019] (AAR-AP)

[11] AAR-AP - Tobacco leaves - Procured at tobacco auction platforms or directly from farmers, which are cured and dried by farmers themselves and under different conditions.

Ruling : (a) What is the rate of GST applicable on tobacco leaves procured

at tobacco auction platforms or directly from farmers, which are cured and dried by farmers themselves?

The GST Rate of tax for the tobacco leaves procured at tobacco auction platforms or directly from farmers, which are cured and dried by farmers themselves is 5% As per the notification 4/2017 Central Tax (Rate), under 'Reverse charge'

(b) What will be the applicable rate of tax if the applicant purchases tobacco leaves from other dealers who have purchased them from farmers, for the purpose of trading?

5% (2.5% SGST + 2.5% CGST) as per Sl.No. 109 of schedule I Notification No. 1/2017 Central Tax (Rate), Dt: 28-6-2017.

(c) What will be the applicable rate of tax if the applicant segregates the tobacco into grades depending upon their size (width), colour/shade, length, texture of the leaf etc., and sells such graded tobacco leaf?

5% (2.5% SGST + 2.5% CGST) as per Sl.No. 109 of schedule I Notification No. 1/2017 Central Tax (Rate), Dt: 28-6-2017.

(d) What will be the applicable rate of tax if the tobacco leaves are butted and sold to other dealers?

5% (2.5% SGST + 2.5% CGST) as per Sl.No. 109 of schedule I Notification No. 1/2017 Central Tax (Rate), Dt: 28-6-2017.

(e) What is the applicable rate of tax if the applicant gets the tobacco leaves re-dried without getting them threshed?

5% (2.5% SGST + 2.5% CGST) as per Sl.No. 109 of schedule I Notification No. 1/2017 Central Tax (Rate), Dt: 28-6-2017.

(f) What will be the applicable rate of tax if the applicant gets the tobacco leaves threshed and re-dried?

28% (14% SGST + 14% CGST) as per Sl.No. 13 of Schedule IV Notification No. 1/2017 Central Tax (Rate), dt. 28-6-2017.

(g) What will be the applicable rate of tax if the applicant gets the tobacco threshed and re-dried on job work basis at others' premises and then sells such threshed and re-dried tobacco leaves to others?

28% (14% SGST + 14% CGST) as per Sl.No. 13 of Schedule IV Notification No. 1/2017 Central Tax (Rate), dt. 28-6-2017.

K.S. Subbaih Pillai & Co. (India) Pvt. Ltd. [11-3-2019] (AAR-AP);

Alliance One Industries India Pvt. Ltd. [29-4-2019] (AAR-AP);

M.L. Agro Products Pvt. Ltd. [26-3-2019] (AAR-AP);

M.L. Tobacco Developers Pvt. Ltd. [26-3-2019] (AAR-AP);

Maddi Lakshmaiah and Co. Pvt. Ltd. [26-3-2019] (AAR-AP);

Michailides ML Oriental Tobacco Pvt. Ltd. [26-3-2019] (AAR-AP);

ML Exports [26-3-2019] (AAR-AP);

Polisetty Somasundaram Tobacco Threshers Pvt. Ltd. [26-3-2019] (AAR-AP);

Polisetty Somasundaram [26-3-2019] (AAR-AP);

VST Industries Ltd. [26-4-2019] (AAR-AP)

[12] AAR-AP - Construction services - Composite Supply of Works Contract - Rate of tax under GST for construction of office building at Vijayawada for A.P. State Financial Corporation - Classifiable under SAC 9954 and applicable rate of tax is 18%.

Ruling : The activity of the applicant under the said agreement with M/s. APSFC is a Composite Supply of Works Contract as defined in clause 119 of Section 2 of Central Goods and Services Act, 2017.

M/s. APSFC is a Government Entity within the meaning of para 4 of clause (x) of Notification No. 11/2017-CT (Rate) dated 28-6-2017 as amended by Notification No. 31/2017-CT (Rate) dated 13-10-2017.

As the use of the construction / building is for office purpose of M/s. APSFC to conduct their activities which are not other than for commerce, industry, or any other business or profession, the concessional rate of 12% under Notification No. 24/2017-Central Tax (Rate) dated 21-9-2017 read with Notification No. 31/2017 – Central Tax (Rate) dated 13-10-2017 is not available to the applicant.

The activities under the agreement referred by the applicant are classifiable under SAC heading No. 9954 under construction services, they fall under entry No. (ii) of serial No. 3 of notification No. 11/2017-Central Tax (Rate) dated 28-6-2017 and the applicable rate of tax is 18% (9%

Central Tax Plus 9% State Tax).

R. Gangaiah & Co. [3-4-2019] (AAR-AP)

[13] AAR-AP - Solar PV Power Project - Classified under heading 9954 and the applicable rate of tax is 18%.

Ruling : a. Whether the activities carried out by the applicant under all 3 contracts entered for establishment of Solar PV Power Project can be treated as Composite Supply? If yes, whether the said supply can be classified under Sl.No. 234 of Schedule I of the Notification No. 1/2017- Central Tax (Rate) dt. 28-6-2017 and GST shall be paid at the rate of 5%.

Ruling: The activities carried out by the applicant under all 3 contracts entered for establishment of Solar PV Power Project can be treated as Composite Supply, which is a composite supply of works contract as defined at Section 2 of CGST Act '2017 and APGST Act, 2017 and is treated as supply of service in terms of serial No. 6, Schedule II of CGST Act '2017 and APGST Act, 2017. Hence, the said supply cannot be classified under Sl.No. 234 of Schedule I of the Notification No. 1/2017-Central Tax (Rate) dt. 28-6-2017 and GST at the rate of 5% is not applicable.

Instead it is classified under heading 9954, entry no. (ii) of S.No. 3 of the table of notification No. 11/2017-Central Tax (Rate), Dated - 28th June 2017 as amended from time to time and corresponding notifications under APGST Act, 2017, and the applicable rate of tax is 18% (9% under Central tax and 9% State tax).

Further, the amended rate of tax vide notification No. 24/2018-Central Tax (Rate) dated: 31-12-2018 and notification No. 27/2018-Central Tax (Rate) dated: 31-12-2018, amending earlier notifications No. 01/2017, Central Tax (Rate) dated: 28-6-2017 and notification No. 11/2017, Central Tax (Rate) dated: 28-6-2017 respectively, which came into force from 1-1-2019, is applicable.

b. If not, whether GST can be paid on value relating to supply of solar modules alone at 5% as per Sl.No. 234 of Schedule I of the Notification No. 1/2017-Central Tax (Rate) dated 28-6-2017.

Ruling: This question finds no relevance in the context of negation of the same in the earlier question.

McNally Bharat Engineering Co. Ltd. [27-5-2019] (AAR-AP)

[14] AAR-AP - Goods Transport Agency - As per the lorry receipts issued by the applicant, he is rendering GTA services and his tax liability under GST law is as detailed in the para 6.8.

Ruling : Query: Does the applicant bound to pay GST on the actual amount of commission retained by him for arranging transport facility to their customers or he has to pay GST on the entire amount received from his customers without deducting the commission; What is the rate of tax payable?

Answer: As per the lorry receipts issued by the applicant, he is rendering Goods Transport Agency services and his tax liability under GST law is as detailed in the para 6.8 above.

Balasubramanyam Saravana Perumal, Prop: Chitra Transport [8-7-2019] (AAR-AP)

[15] AAR-AP - Electricity Distribution Agency - The exemption is not available to the third parties or contractors engaged by the applicant; but it applies for the services done by electricity distribution agency only.

Ruling : (a) Whether the supply of services such as connection, re-connection, supervision of the works, erection of poles, sub-stations, transmission lines etc., and supply of meters etc., to the consumers for the purpose and during the course of supply of electricity to them are naturally bundled and thus form part of the composite supply of principal activity of supply of electrical energy?

(b) Whether the supply of services such as connection, re-connection, supervision of the works, erection of poles, sub-stations, transmission lines etc., and supply of meters etc., to the consumers for the purpose and during the course of supply of electricity to them can be treated as part of principal supply of transmission or distribution of electricity which is exempted?

(c) Whether the above supplies made to the consumers through contractors and third parties for the purpose of purpose of transmission or distribution of electricity or sale of electrical energy are also exempted?

Answers to questions (a); (b) & (c)

In the facts and circumstances presented by the applicant the “Transmission or distribution of electricity by an electricity transmission or distribution utility” is only exempted vide entry No. 25 of the Notification

No. 12/2017-Central Tax (Rate) New Delhi, the 28th June, 2017. Any service, other than transmission or distribution of electricity, rendered by the applicant is not covered in the said entry for claiming exemption. Services rendered apart from “transmission or distribution of electricity” are taxable.

(d) If the answer to the above questions is ‘NO’, whether the works executed under Deendayal Upadhyay Gram Jyoti Yojna for Rural Electrification (‘DDUGJY’), Integrated Power Development Scheme (‘IPDS’) and Restructured Accelerated Power Development and Reforms Program supplies made through contractors are liable to 12% GST since they are executed under grants provided by central government and no commercial activity is involved with regards these works?

(e) If the answer to the above questions at (A), (B) and (C) is ‘NO’, whether the execution of the Agricultural Demand Side Management Scheme (AGL) works are liable to 12% GST since they are executed for the purpose of non-commercial?

Answers to the questions (d) & (e):

The activities referred by the applicant are not covered in the Notification No. 24/2017-Central Tax (Rate), dated 21-9-2017 for availing concessional rate of 12% GST rate and the applicable rate of tax is 18% (9% under Central tax and 9% State tax).

(f) Whether the supply of services and goods made by the applicant through contractors by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network up to the tube well of the farmer or agriculturist for agricultural are exempted vide Notification No. 14/2018-Central Tax (Rate) dated 26-7-2018 ?

Answer to the question (f)

The Applicant is only entitled for the benefit of NIL rate of GST under Sl.No. 10A of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, amended by notification No. 14/2018-Central Tax (Rate), dated 26-7-2018 for the stated works and not for the contractors providing services to the applicant.

Southern Power Distribution Company of AP Ltd. [8-7-2019] (AAR-AP)

[16] AAR-AP - Extraction of Timber/ Bamboo in natural Forests - Fall under entry 35 of the Heading 9997 (SAC Code) and taxable @ 9% CGST + 9% SGST.

Ruling : The transactions made by the applicant fall under entry 35 of the Heading 9997 (SAC Code) of the Notification No. 11/2017, dt: 28-6-2017 and taxable at the rate of 9% CGST + 9% SGST.

Mallelli Venkateswara Rao [9-7-2019] (AAR-AP)

[17] AAR-AP - Advance Ruling - Applicability of interest in the context of payment done under wrong Head - Not maintainable.

But the applicant sought Advance Ruling in an issue of applicability of interest for the intervening period in the context of payment done under one Head i.e., Head of Cess instead of the other i.e., under the Head of CGST with a time gap of eight months between the two payments, which is outside the purview of the Advance Ruling Authority as per Section 97(2) of CGST Act, 2017.

Hence the application is not admitted under Sec 98 (2) of CGST Act, 2017 and APGST Act, 2017.

Venkata Rao Tirupathi [12-7-2019] (AAR-AP)

[18] AAR-AP - Flavoured milk - The HS code for flavoured milk is 2202 9930 and the GST rate is 12%.

Ruling : The HS code for flavoured milk is 2202 9930 and the GST rate is 12% (6% CGST and 6% SGST) under entry No. 50 of Schedule II of Notification No. 1/2017-Central (Rate) dated 28-6-2017 as amended.

Sri Chakra Milk Products LLP. [15-7-2019] (AAR-AP);

Tirumala Milk Products Pvt. Ltd. [15-7-2019] (AAR-AP)

[19] AAR-AP - Licensing services for the right to use minerals including its exploration and evaluation - The applicant is receiving leasing / licensing services from the government of Andhra Pradesh. Hence, provisions of reverse charge mechanism are applicable.

Ruling : The activity undertaken by the applicant is classifiable under Heading 9973 (Leasing or rental services, with or without operator), as mentioned in the annexure at Serial No. 257 (licensing services for the right

to use minerals including its exploration and evaluation) and sub heading 997337 of notification number 11/2017-CT (Rate) dated 28-6-2017. The applicant is liable to discharge tax liability under reverse charge mechanism vide Notification No. 13/2017-CT (Rate), dated 28-6-2017 (as amended from time to time) of the CGST Act, 2017.

The activity undertaken by the applicant falls at item (viii) of serial No. 17 of notification No. 11/2017, which was further amended vide Notification No. 27/2018-Central Tax (Rate) dt: 31-12-2018 and attracts 18% GST (9% CGST+ 9% SGST) w.e.f. 1-1-2019.

PKR Projects and Engineers [16-7-2019] (AAR-AP)

[20] AAR-Goa - Scope of Supply - Is an obligation to refrain from an Act, or to tolerate an Act or a situation treated as supply of Goods/ Services - Qualify as 'Supply' would attract tax liability.

Ruling : The compensation paid by GIDC would clearly qualify as 'Supply' under clause 5(e) of Schedule II of the GST Act, and therefore the amount would attract tax liability.

Goa Industrial Development Corporation [17-10-2019] (AAR-Goa)

[21] AAR-Har - Supply of electricity - The supply of electricity, to the extent it is grid supplied, is goods.

Ruling : 7.1 (a) The supply of electricity, to the extent it is grid supplied, is goods.

(b) The supply of electricity through grid and supply of utilities are separate supplies.

(c) The supply of electricity through grid is classified under Entry No. 104 Notification No. 2/2017-Central Tax (rate), dated 28th June, 2017, Tariff Code-27160000.

(d) The applicant is eligible to take Input Tax Credit on supply of renting services. Input Tax Credit in case of electricity supply shall be restricted to the supply made through DG sets.

Keysight Technologies International India Pvt. Ltd. [9-9-2019] (AAR-Har)

[22] AAR-HP - Protein Powder with Vitamins and Minerals - Classified under HS code 3004.

Ruling : We have carefully gone through the arguments of the applicant and evidences produced. We are of the considered opinion that all the goods being manufactured by the applicant which are mentioned (including the goods mentioned at Sr. No. 20 and 21) in the drug license issued to the applicant by the competent authority and have the labels as per the standards prescribed under the Drugs and Cosmetics Act, 1940 can be classified under HS code 3004.

Newtramax Healthcare [15-11-2019] (AAR-HP)

[23] AAR-HP - Advance Ruling - Academic interest - The applicant is neither supplier nor he proposes to undertake supply, therefore the application for advance ruling is not admitted.

Ruling : Since the applicant is neither supplier of ENA nor he proposes to undertake supply of ENA, therefore the application for advance ruling is not admitted.

Bakson Drugs & Pharmaceuticals Pvt. Ltd. [20-11-2019] (AAR-HP)

[24] AAR-Kar - Data centre facilities - The activity of setting-up of the data centre facilities as explained would qualify as 'works contract' as per Section 2(119).

Ruling : 1. In respect of the first question it is Ruled that the proposed activity of setting-up of the data centre facilities as explained would qualify as 'works contract' as per Section 2(119) of the Central Goods and Service Tax Act, 2017 and Section 2 (119) of the Karnataka Goods and Service Tax Act, 2017.

2. The rate of tax applicable is 9% CGST and 9% SGST as per Entry No. 3(ii) of Notification 11/ 2017-Central Tax (Rate) dated June 28, 2017.

Hewlett Packard Enterprise India Pvt. Ltd. [30-9-2019] (AAR-Kar)

[25] AAR-Kar - Development and sale of land - Amount to supply of service and is liable to be taxed under GST.

Ruling : Q.No. 1 : The activities as envisaged in the agreement between the applicant and the landowners amount to supply of service and is liable to be taxed under GST.

Q.No. 2 : Rule 31 applies in the instant case and the value of the supply is equal to the total amount received by the applicant, which is equal to 25% of the market value of each plot.

Maarq Spaces Pvt. Ltd. [30-9-2019] (AAR-Kar)

[26] AAR-Kar - Advance Ruling - Place of Supply - Section 97 of the CGST Act, 2017 does not empower the Authority to give Ruling on the Place of Supply of Goods or Services.

Ruling : 1. The first question whether the services provided by the applicant to the foreign client amount to export of service cannot be answered as Section 97 of the CGST Act, 2017 does not empower the Authority to give Ruling on the Place of Supply of Goods or Services.

2. Regarding the “pass through expenses”, the applicant acts as a “pure agent” in receiving amounts from the foreign clients and passing it on to the Local Research Institutions.

PAREXEL International Clinical Research [30-9-2019] (AAR-Kar)

[27] AAR-Kar - RRC/PRC models - GST on the machines given to the customers under RRC/PRC models - The applicant is liable to pay GST on the machines / equipments given to the customers under the PRC Model but is not liable to pay GST on the machines / equipments given to the Customers under the RRC model.

Ruling : 1. The applicant is liable to pay GST on the machines / equipments given to the customers under the PRC Model but is not liable to pay GST on the machines / equipments given to the Customers under the RRC model.

2. The supply of reagents along with the machine rental services in both RRC and PRC contract is a separate supply independent of machine rental services supplied, if any

3. The rate of tax for the supply of rental service of equipments is 9% CGST and 9% KGST.

4. The value on which GST has to be paid and the time of supply are

a. in case of RRC Model

i. for the supply of reagents - at the time of supply of reagents on the transaction value

- ii. for the supply of services in the nature of “an act agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act” for which a consideration is received - at the time of supply of such services on the transaction value
- b. In case of PRC Model
 - i. For the supply of rental services in equipments - at the time of supply of the equipments on the amount of non-refundable payment received or invoiced
 - ii. for the supply of reagents - at the time of supply of reagents on the transaction value
 - iii. for the supply of services in the nature of “an act agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act” for which a consideration is received - at the time of supply of such services on the transaction value
- 5. The applicant is eligible for the input tax credit on the purchase of equipment for use in RRC / PRC contracts.

Randox Laboratories India Pvt. Ltd. [30-9-2019] (AAR-Kar)

[28] AAR-Kar - Solar Power Generating System - For the period up to 31-12-2018 the EPC contract is required to be considered as a works contract and has to be taxed accordingly.

Ruling : 1. The contract of the applicant is covered under works contract under section 2(119) of the CGST Act and by item (ii) of entry No. 3 of the Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017 upto 31-12-2018. From 1-1-2019, the same is taxable on the values worked out separately for goods and services under both entry No. 38 of Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017 (as amended by Notification No. 27/2018-Central Tax (rate) dated 31-12-2018) and Entry No. 234 of Schedule I of Notification No. 1/2017-Central Tax (Rate) dated 28-6-2017 as amended by Notification No. 24/2018-Central Tax (Rate) dated 31-12-2018, and the values must be as per the explanation provided therein.

2. The answer to the second question is that parts supplied on standalone basis (when supplied with PV modules) would be eligible to concessional rate of 5% as parts of solar power generation system.

3. The answer to the third question is that the benefit of concessional rate of 5% of solar power generation system and parts thereof would be available to sub-contractors if the sub-contract is only for supply of goods. If the entire EPC contract is sub-contracted then the rate of tax applicable shall be the same as that applicable to the contractor and as ruled above in response to question number 1.

Solarys Non-Conventional Energy Pvt. Ltd. [30-9-2019] (AAR-Kar)

[29] AAR-Kar - Fabrication of body - The activity of fabrication of body building on Tippers, Trailers etc., merits classification under SAC 998881.

Ruling : 1. Charging of GST 28% (CGST @ 14% + SGST @ 14%) as per Sl.No. 169 of Schedule-IV to the Notification No. 1/2017-CT (R) dated 28-6-2017 is correct, if the activity of the applicant is treated as supply of goods, falling under Chapter heading 8707.

2. The activity of fabrication of body building on Tippers, Trailers etc., merits classification under SAC 998881, under “Motor vehicle and trailer manufacturing services”, in terms of Sl.No. 535 of Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017.

3. The applicant can start charging GST 18% (CGST @ 9% + SGST @ 9%) as per Sl.No. (i)(ic) of Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017, as amended by Notification No. 20/2019-Central Tax (Rate) dated 30-9-2019 read with explanation provided under Notification No. 26/2019-CT(R) dated 21-11-2019.

SLN Tech-Fabs (Bengaluru) Pvt. Ltd. [7-1-2020] (AAR-Kar)

[30] AAR-Kar - Advance Ruling - The question proposed in relation to the service/ s being received by applicant beyond the jurisdiction of this authority.

Ruling : The application filed by the Applicant for advance ruling is rejected, in terms of Section 98(2) of the CGST Act 2017.

Barbeque Nation Hospitality Ltd. [9-1-2020] (AAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[31] AAAR-Kar - Nicotine Polacrilex Lozenge - Falling under Chapter Heading 38.24 - AAR order confirmed by Appellate Authority.

Order : We uphold the order No. KAR ADRG 18/2019 dated 7-8-2019 passed by the Advance Ruling Authority and appeal filed by the appellant M/s. Strides Emerging Markets Ltd, stands dismissed on all accounts.

Strides Emerging Markets Ltd. [3-12-2019] (AAAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[32] AAAR-Kar - Condonation of delay - The Appellate Authority were not empowered to condone the delay of 77 days in filing appeal, therefore, rejected the same.

Order : We dismiss the appeal filed by the appellant M/s. Durga Projects & Infrastructure Pvt. Ltd., on grounds of time limitation.

Durga Projects & Infrastructure Pvt. Ltd. [24-12-2019] (AAAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[33] AAAR-Kar - Pooja Oil - Classifiable only under Chapter sub-heading 1518 00 40 - AAR order confirmed by Appellate Authority.

Order : We uphold the order No. KAR ADRG 49/2019 dated 18-9-2019 passed by the Advance Ruling Authority and appeal filed by the appellant M/s. S.K. Aagrotechh, stands dismissed on all counts.

S.K. Aagrotechh [24-12-2019] (AAAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[34] AAAR-Kar - Filters - Filters manufactured by the Appellant solely and principally for use by the Indian Railways and supplied directly to the Indian Railways are classifiable under Chapter Heading 84.21 - AAR order confirmed by Appellate Authority.

Order : We uphold the order No. KAR ADRG 54/2019 dated 19-9-2019 passed by the Advance Ruling Authority and appeal filed by the appellant M/s. Parker Hannifin India Pvt. Ltd., stands dismissed on all counts.

Parker Hannifin India Pvt. Ltd. [10-1-2020] (AAAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[35] AAAR-Kar - Pharmaceutical Reference Standards - Pharmaceutical Reference Standards (Prepared Laboratory Reagents) classified under Tariff Item 3822 00 90 attracting a levy of Integrated Tax at the rate of 12% - The appeal allowed and AAR Ruling set aside by the Appellate Authority.

Order : The Pharmaceutical Reference Standards (Prepared Laboratory Reagents) imported and supplied by the Appellant and classified under Tariff Item 3822 00 90 of the Customs Tariff Act, 1975 is covered under Entry No. 80 of Schedule-II to Notification No. 1/2017-Integrated Tax (Rate) dated 28th June 2017 attracting a levy of Integrated Tax at the rate of 12%.

We set aside the Advance Ruling No. KAR/ADRG 71/2019 dated 23-9-2019 and allow the appeal filed by M/s. Chromachemie Laboratory Pvt. Ltd.

Chromachemie Laboratory Pvt. Ltd. [14-1-2020] (AAAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[36] AAAR-Kar - Pre-sale and Marketing Services Agreement - The Appellate authority uphold the decision of the AAR that the pre-sale and marketing service is appropriately classified as an 'intermediary service' as defined under Section 2(13) of the IGST Act.

Order : We uphold the Advance Ruling No. KAR/ADRG 31/2019 dated 12-9-2019 and dismiss the appeal filed by M/s. Infinera India Pvt. Ltd. on all counts.

Infinera India Pvt. Ltd. [20-1-2020] (AAAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[37] AAAR-Kar - Contribution received from members - The position regarding the exemption from GST was always applicable only when the individual member's contribution per month was within Rs 7500/- - AAR order confirmed by Appellate Authority.

Order : We uphold the order No. KAR ADRG 47/2019 dated 17-9-2019 passed by the Advance Ruling Authority and appeal filed by the appellant M/s. Vaishnavi Splendour Homeowners Welfare Association, stands

dismissed on all accounts.

Vaishnavi Splendour Homeowners Welfare Association [21-1-2020]
(AAAR-Kar)

APPELLATE AUTHORITY FOR ADVANCE RULING

[38] AAAR-Kar - Access Card - The Appellate Authority set aside the order of AAR and held that the 'Access Card' printed and supplied by the Appellant based on the contents provided by their customers is a supply of goods and is classifiable under HSN code 4901 10 20.

Order : We set aside the ruling no No. KAR ADRG 46/2019 dated 17/09/2019 passed by the Advance Ruling Authority and answer the questions of the Appellant as follows:-

(i) The 'Access Card' printed and supplied by the Appellant based on the contents provided by their customers is a supply of goods and is rightly classifiable under HSN code 4901 10 20 under the description brochures, leaflets and similar printed matter whether or not in single sheet.

(ii) The 'Access card' printed and supplied by the appellant attracts GST rate of 5% in case of inter-state supplies and 2.5% CGST and 2.5% SGST in case of Intra state supplies vide SI.No 201 of Schedule I to Notification No. 1/2017-CT (Rate) & 1/2017-IT (Rate) both dated 28-6-2017.

Pattabi Enterprises [31-1-2020] (AAAR-Kar)

[39] AAR-Ker - Trisonic Wind Tunnel - Design, fabrication, procurement, integration and control and commissioning of Trisonic Wind Tunnel with Ejector System is considered as works contract.

Ruling : In view of the observations stated above, the following rulings are issued:

Whether design, fabrication, procurement. integration and control and commissioning of Trisonic Wind Tunnel with Ejector System is considered as works contract?

The work of design, realisation, integration and commissioning of Trosonic Wind Tunnel as a turnkey project will fall under the definition of works contract under Section 2 (119) of the CGST Act, 2017. The Service

provided to the Central Government by way of construction, erection, commissioning, installation, completion, fitting out, of a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession will attract 12% GST as per Sl.No.3(vi) of Notification No.08/2017 Integrated Tax (Rate) dated 28-6-2017.

Vikram Sarabhai Space Centre [12-4-2019] (AAR-Ker)

[40] AAR-Ker - Disposable underpads - Classified under HSN 9619 and taxable @ 12%.

Ruling : In view of the observations stated above, the following rulings are issued:

Whether disposable underpads manufactured by the appellant falls under HSN tariff item 9619.00.90?

Yes. The product is classified under HSN 9619 - Sanitary towels (pad) and tampons, napkins and napkin liners for babies and similar articles of any material.

9619 00 90 - Others

The product attracts 12% GST [Sl.No.235 of Schedule II of Notification No. 01/2017 -Central Tax (Rate) dtd. 28-6-2017 and SRO.No.360/2017].

Dobersun Products Pvt. Ltd. [21-6-2019] (AAR-Ker)

[41] AAR-Ker - Cervical pillows - Fall under HSN 9404 10 00 and is taxable at the rate of 18%.

Ruling : In view of the observations stated above, the following rulings are issued:

Whether Cervical Pillows falls under HSN tariff item 9021.10.00?

No. Cervical pillows fall under HSN 9404 10 00 and is taxable at the rate of 18% GST as per Sl No. 438 of Schedule III of Notification No. 01/2017-Central Tax (Rate) dated 28-6-2017.

Dynamic Techno Medicals Pvt. Ltd. [21-6-2019] (AAR-Ker)

[42] AAR-Ker - Agricultural implements - Spout, cup holder and latex collection cup are agricultural implements exclusively used for rubber tapping come under the classification HSN 8201 90 00.

Ruling : In view of the observations stated above, the following rulings are

issued:

Classification and rate of tax of agricultural implements used for rubber tapping such as Spouts, Cup Holders and Collection Cups.

Spout, cup holder and latex collection cup are agricultural implements exclusively used for rubber tapping come under the classification HSN 8201 90 00 “other hand tools of the kind used in agricultural, horticulture or forest”. As such these items are exempted from GST.

Geo Thomas & Company [21-6-2019] (AAR-Ker)

[43] AAR-Ker - Confectionery products - Peanut candy and Gingelly candy are taxable at the rate 5%.

AAR-Ker - Traditional sweet/snack of Kerala - Uniappam, Neyyappam, Kinnathappam, Kalathappam, Rice Ball (ariyunda) and Avil Vilayichathu are taxable at the rate of 5%.

AAR-Ker - Namkeen - Achappam, Kuzhalappam, Madakku, Pottiappam, Thatta / Thattavada and Murakku are taxable at the rate of 12%.

AAR-Ker - Baked Chips - Baked Chips are come under HSN 2008 19 40 and taxable at 12%.

Ruling : In view of the observations stated above, the following rulings are issued:

01) Peanut candy and Gingelly candy are taxable at the rate 5% GST vide Entry No.92 of 1st Schedule (Notification No. 1/2017/CT (Rate) dtd. 28-6-2017 & SRO.No.360/2017 DTD. 30-6-2017).

02) Uniappam, Neyyappam, Kinnathappam, Kalathappam, Rice Ball (ariyunda) and Avil Vilayichathu are taxable at the rate of 5% GST vide Entry No. 101 of the 1st Schedule (Notification No. 1/2017/CT(Rate) dtd. 28-6-2017 & SRO, No.360/2017 DTD. 30-6-2017).

03) Achappam, Kuzhalappam, Madakku, Pottiappam, Thatta / Thattavada and Murakku are taxable at the rate of 12% GST if sold at brand / trade name vide Entry 46 of the 2nd Schedule. If these items are sold in unit container without brand name or with a brand name on which any actionable claim or enforceable rights in respect of such brand name has voluntarily forgone are taxable at the rate of 5% vide Entry No. 101A of the 1st

Schedule. (Notification No. 34/2017/CT(Rate) & SRO. No.727/2017)

04) Baked Chips are come under HSN 2008 19 40 and taxable at 12% vide Entry 40 of 2nd Schedule. (Notification No. 1/2017/CT(Rate) dtd. 28-6-2017 & SRO.No.360/2017.)

P.M. Sankaran [21-6-2019] (AAR-Ker)

[44] AAR-Ker- Health care services - Composite Supply to in-patients - Naturally bundled and are provided in conjunction and eligible for exemption.

AAR-Ker- Health care services - Composite Supply to out-patients - Taxable supply of goods and thereby GST is applicable.

AAR-Ker- Incidental services - Services by way of diagnosis come under the category of health care services covered under SAC 9993 in connection with health care services provided by a clinical establishment and are, therefore, exempted

Ruling : In view of the observations stated above, the following rulings are issued:

- *Whether the applicant, a Multi Speciality Hospital is liable to pay GST on supply of medicines, drugs and other surgical goods from its pharmacy to inpatients?*

The supply of medicines, drugs and other surgical goods from its pharmacy to in-patients are in the course of providing health care services which are naturally bundled and are provided in conjunction with each other, would be considered as “Composite Supply” and eligible for exemption under the category ‘health care services’.

- *Whether the applicant, a Multi Speciality Hospital is liable to pay GST on supply of medicines, drugs and other surgical goods from its pharmacy to outpatients?*

The supply of medicines, drugs and other surgical goods by the hospital from its pharmacy to out-patients as part of health care services is a taxable supply of goods and thereby GST is applicable.

- *Whether the applicant is liable to pay GST on supply of incidental services as X ray, Clinical laboratory, etc. rendered as part of health care service?*

As per SRO.No.371/2017 vide Sl. No.74 (Notification No. 12/2017-CT (Rate) dtd. 28-6-2017), services by way of diagnosis come under the category of health care services covered under SAC 9993 and thereby exempted.

- *Whether the applicant is liable to pay GST on supply of implants and artificial limbs made during course of treatment to patients?*

The supply of artificial body parts / devices such as heart valve, artificial kidney, artificial joints, and coronary stents etc. which are implanted in the body essentially by means of a surgical procedure can be classified as a composite supply where the principal supply is of healthcare services. In case of artificial body parts / devices which are worn / attached / fitted / fastened to the body for which a surgical procedure may or may not be required; the nature / taxability of supply has to be determined on a case to case basis considering the facts and circumstances of each case.

The supply of goods like wheel chairs, tricycles etc. to the patients cannot be considered as a composite supply where the principal supply is health care services and accordingly will be liable to GST as individual supply of goods.

Baby Memorial Hospital Ltd. [5-9-2019] (AAR-Ker)

[45] AAR-Ker- Quality testing and certification of gold ornaments - Covered under SAC 998346 and the rate of GST applicable to 998346 is 18%.

Ruling : In view of the observations stated above, the following rulings are issued:

- The tax liability of the applicant; the rate of tax for the services rendered by the applicant on quality testing and certification of gold ornaments.*

The quality testing and certification of gold ornaments are covered under Service Classification Code, 998346 - Technical testing and analysis services. This service code includes; testing and analysis of the chemical and biological properties of materials such as air, water, waste (municipal and industrial), fuels, metal, soil, minerals, food and chemicals. The rate of GST applicable to 998346 is 18% as per Sl.No. 21 (ii) Other professional, technical and business services - of Notification No. 11/2017 Central Tax (Rate) dated 28-6-2017.

ii) *The services on testing and appraisal of purification level of the gold ornaments that is - to certify the grade of gold smith works on the specimen given by gold workers.*

The quality testing and certification of gold ornaments are covered under SAC 998346. The rate of GST applicable to 998346 is 18% as per Sl.No. 21 (ii) Other professional, technical and business services - of Notification No. 11/2017 Central Tax (Rate) dated 28-6-2017.

iii) *Gold maintenance / repair works such as enlargement of gold chains or other gold ornaments or cutting and polishing of gold ornaments or other repairs of gold ornaments.*

The Jewellery Manufacturing Services includes gold maintenance / repair works, which falls under service Classification Code 998892. As per Section 2 (68) of the CGST Act, 2017; Job work is defined as undertaking any treatment or process by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly. The rate of GST applicable for manufacturing services on physical inputs (goods) owned by others is 5%; if undertaken on goods belonging to registered persons as per Sl.No.26 (i) (c) and 18% GST, if job work undertaken on goods belonging to unregistered persons as per Sl.No. 26 (iv) of Notification No. 11/2017 Central Tax (Rate) dated 28-6-2017.

iv) *Printing name of emblems or embossing / projecting top or side portion of ornaments.*

Same as Q.No. iii above.

v) *Cutting, shaping, sizing and conversion of gold ornaments into coins/biscuits as per the specific instructions of prospective customers.*

Same as Q.No. iii above.

vi) *Is there any tax liability under GST laws on the applicant for the pure job works if the total turnover of the applicant is below Rs.19 lakhs per annum.*

As per Section 22 of CGST/SGST Act, 2017; every supplier of services is required to obtain registration only when his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit of Rs.20 lakhs.

CGR Gold Trading [16-9-2019] (AAR-Ker)

[46] AAR-Ker - Job works - Rate of tax under GST applicable to the professional / job works charges - Manufacturing services on physical inputs (goods) owned by others taxable @ 18%.

Ruling : In view of the observations stated above, the following rulings are issued:

i) *What will be the rate of tax under GST applicable to the professional / job works charges to be paid by the applicant in this case as explained above?*

The rate of GST applicable is 18% as per Sl.No. 26 (iv) - Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ii), (iia) and (iii) above of Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017.

ii) *Is there any restriction in GST laws to supply raw materials to the job work unit and get the finished goods to the applicant from the job work unit as per the required design and supervision of the engineers of the applicant and what will be the rate of tax under GST law for the above works chargeable by the service provider?*

As per Section 143 of the CGST/SGST Act, 2017; the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work, the principal shall either bring back the goods to his place of business or supply the same directly from the place of business / premises of the job worker within one year in case of inputs or within three years in case of capital goods. The rate of GST applicable is the same as that mentioned supra.

iii) *What are the documents or formats to be maintained by the applicant under GST laws to transfer the raw materials to the job work unit and also the documents to be maintained after the processing and return of finished goods from the job work unit to the applicant or dispatch of finished goods from the job work unit directly to the destination of the applicant's customers?*

As per the provisions of Section 143 (1) of the CGST Act, 2017 the principal can supply goods directly from the place of business / premises of the job worker to its end customer. The supply of goods by the principal

from the place of business / premises of the job worker to the end customer will be regarded as supply by the principal and not by the job worker. If the job worker is not registered then the principal shall declare the place of business of the job worker as his additional place of business.

As per Rule 45 of the CGST/SGST Rules, 2017; the inputs, semi-finished goods or capital goods shall be sent to the job worker and received back by the principal under the cover of a delivery challan containing particulars as prescribed in Rule 55 *ibid* issued by the principal, including where such goods are sent directly to a job worker. The principal is required to file FORM GST ITC-04 every quarter furnishing the details of the goods sent for job work.

iv) *In case consumables like paints primers and consumable spares like locking ring are arranged by the job work unit, is there any change on the rate of tax under GST law on such job works provided by the job work unit?*

(in this case, the consumables which are estimated at less than 9% of the total cost of raw materials are arranged by the job work unit and the said 9% of the estimated cost of consumables is going to be added to the job works charges).

The job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

The job worker, as a supplier of services, is liable to pay GST at the applicable rate. The job worker shall issue an invoice at the time of supply of the services as determined in terms of Section 13 read with Section 31 of the CGST/SGST Act. The value of services would be determined in terms of Section 15 of the CGST/SGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services. The use of own goods by the job worker in addition to the goods supplied by the principal for job work will not change the nature of the activity and will have no bearing on the rate of GST applicable for the job worker.

v) *Is there any tax liability on the applicant under GST laws on the value of the scrap held with the job work unit?*

(in this case, the applicant is not collecting the scrap of raw materials from the job work place due to the fact that if the applicant has collected

the same the applicant would suffer excess amount for transportation and labour charges for the scrap than the cost realizable from the scrap. However, the job work unit would pay GST on any receipt of their disposal of scrap.)

As per sub-section (5) of Section 143 of the CGST/SGST Act, 2017; any waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business on payment of tax, or by the principal if the job worker is not registered.

Industrial Engineering Corporation [16-9-2019] (AAR-Ker)

[47] AAR-Ker - Discount / rebate - The applicant is liable to pay GST on the amount received as reimbursement of discount / rebate from the principal company.

Ruling : In view of the observations stated above, the following rulings are issued:

i) *On the tax liability of the applicant for the transactions mentioned herein and explained as above. The applicant is paying the tax due as per the invoice value issued by the applicant and availing the input credit of GST shown in the inward invoice received by the applicant from the Principal Company or their stockiest.*

The applicant/distributor is eligible to avail ITC shown in the inward invoice received by him from the supplier of goods / principal company.

ii) *Whether the discount provided by the Principal Company to their dealers through the applicant as shown in Annexure D attracts any tax under the GST laws.*

It is established from the statement of the applicant that the prices of the products supplied by the applicant is determined by the supplier /principal company and the applicant has no control on the price of the products. Therefore, it is evident that the additional discount given by the supplier through the applicant; which is reimbursed to the applicant is to offer a special reduced price by the distributor / applicant to the customers and hence the amount represent consideration paid by the supplier of goods / principal company to the distributor / applicant for supply of goods by the distributor / applicant to the customer. Therefore, this additional discount reimbursed by the supplier of goods / principal company to the distributor / applicant

is liable to be added to the consideration payable by the customer to the distributor / applicant to arrive at the value of supply under Section 15 of the CGST / SGST Act at the hands of the distributor / applicant.

iii) *Whether the amount shown in the Commercial Credit note issued to the applicant by the Principal Company attracts proportionate reversal of input tax credit.*

The supplier of goods / principal company issuing the commercial credit note is not eligible to reduce his original tax liability and hence the recipient / applicant will not be liable to reverse the ITC attributable to the commercial credit notes received by him from the supplier.

iv) *Is there any tax liability under GST laws on the applicant for the amount received as reimbursement of discount or rebate provided by the Principal Company as per written agreement between the Principal Company and their dealers and also an agreement between the principal and distributors.*

The applicant is liable to pay GST at the applicable rate on the amount received as reimbursement of discount / rebate from the principal company.

Santhosh Distributors [16-9-2019] (AAR-Ker)

[48] AAR-Ker - Repair Rate Contract - Where a supply involves both goods and services and the value are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately and can not be treated as composite supply.

Ruling: In view of the observations stated above, the following rulings are issued:

Whether the supply of spare parts / accessories and repair service can be considered as composite supply wherein the principal supply is repair service and hence the rate of tax for all the supplies, consisting of spare parts / accessories and repair service, be taken as 18%?

The supply of spares parts / accessories and repair service are distinct and separately identifiable supplies for which the rates are quoted differently and work orders are issued separately specifying the spares / accessories to be supplied and the services to be supplied and the rates applicable thereon as per the rates quoted in the Repair Rate Contract can't be considered as

a composite supply. Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

Vista Marine and Hydraulics [16-9-2019] (AAR-Ker)

[49] AAR-Ker - Bakery products - Cooked packed foods - The facility provided by the applicant to customers to have the food items consumed at the premises does not qualify the applicant to be categorized as a restaurant service provider.

Ruling: In view of the observations stated above, the following rulings are issued:

i) *Whether resale of food & bakery products fall under restaurant services.*

No. A restaurant is a place of business where food is prepared in the premises and served based on the orders received from the customer. In the instant case it is a bakery, where ready to eat items are sold and mere facility is provided to have it from the shop.

ii) *Whether classification of HSN and Tax rates done by the applicant is correct or not.*

Sweets - Agra Peda, Maladoo, Rava Ladoo, Kappa Ladoo, Kesari, Kesari Beetroot, Boli, Boli Banana, Pappada Boli, Churuttu, Sweet Kachori, Halwa Guava, Halwa Jackfruit, Halwa Mango, Halwa Wheat, Carrot Sweet, Kaju Burfi, Aval Vilayichathu, Ariunda, Avalose unda, Diamond Cuts (Sweet), Carrot Sweet and Unniyapam are classifiable under HSN Code 2106 90-Sweetmeat and attracts GST at the rate of 5% as per Sl.No. 101 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Chappathi is classifiable under HSN Code 2106 90 99 and is liable to GST at the rate of 5% as per Sl.No. 99A of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Coconut Chutney Powder and Dosa Chutney Powder are classifiable under HSN Code 2106 90 99 and is liable to GST at the rate of 5% as per Sl.No. 100A of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Namkeen items - Achappam, Avalose Podi, Cheeda, Diamond Cuts (Hot), Kuzhalappam, Murukku and Thatta are classifiable under HSN Code 2106 90 and is liable to GST at the rate of 12% as per Sl.No. 46 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017 for those put up in unit container and, (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available. The rate of GST is 5% as per Sl.No. 101A of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017 for those other than put up in unit container and, (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available.

Banana Chips, Chakka Chips, Cheema Chakka Chips, Chembu Chips, Kappa Chips, Sarkara Varatti, Kovakkai Vattal and Pavakkai Vattal are classifiable under HSN Code 2008 19 40-Other roasted and fried vegetable products and is liable to GST at the rate of 12% as per Sl.No. 40 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Fried Peanuts and Chilly Nuts are classifiable under HSN Code 2008 and are liable to GST at the rate of 12% as per Sl.No. 40 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Pickles namely; Ambazhanga Red Pickle, Ambazhanga White Pickle, Pavakkai Pickle, Bitter Gourd Special Pickle, Bitter Gourd Red pickle, Chikoo Pickle, Curry Lime Pickle, Dates Chutney Pickle, Dates Pickle, Garlic Pickle, Gooseberry Pickle, Grape Pickle Red Special, Grape Pickle White Special, Hot Chilly Pickle, Kadumanga Pickle, Lime Garlic Pickle, Lime Mango Ginger Pickle, Lime Red Pickle, Lime White Pickle, Luvli Pickle, Mango Ginger Pickle, Padaval Pickle, Special Mango Pickle, Sweet Lime Pickle, Tender Mango Pickle, Vista Unique Mango Pickle are classifiable under HSN Code 2001 90 00 and attracts GST at the rate of 12% as per Sl.No. 33 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Pickles namely; King Fish Pickle and Tuna Pickle are classifiable under HSN Code 1604 12 10 and Meat Pickle is classifiable under HSN Code 1602 90 00 and are liable to GST at the rate of 12% as per Sl.Nos. 31 and 29 respectively of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Mango Jam, Mixed Fruit Jam, Orange Jam, Pineapple Jam and Plantain Jam are classifiable under HSN Code 2007 and attract GST at the rate of 12% as per Sl.No. 39 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Juice Green Mango, Juice Mango, Juice Passion Fruit and Juice Rose Apple are classifiable under HSN Code 2009 and attract GST at the rate of 12% as per Sl.No. 41 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Juice Butter Milk is classifiable under HSN Code 0403 90 10 and is exempted as per Sl.No. 26 of Notification No. 02/2017 Central Tax (Rate) dated 28-6-2017.

Caramel Pudding, Chocolate Pineapple Pudding, Fruit Salad Mix and Tender Coconut Pudding are classifiable under HSN Code 2106 90 99- Other food preparations not elsewhere specified or included and is liable to GST at the rate of 18% as per Sl.No. 23 of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Payasam of all varieties like Ari Payasam, Banana Payasam, Jackfruit Payasam, Kadala Parippu Payasam, Mango Payasam, Palada Payasam, Payar Payasam, Pineapple Payasam, Pidi Payasam, Sarkara Pidi Payasam, Tender Coconut Payasam, Semiya Payasam and Wheat Payasam are classifiable under HSN Code 2106 90 99- Other food preparations not elsewhere specified or included and attracts GST at the rate of 18% as per Sl.No. 23 of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Club Sandwich, Crazy Chicken Bun, Crazy Veg Bun, Crazy Yam, Cutlet Sweet, Cutlet Cheera, Cutlet Chicken, Cutlet Idichakka, Cutlet Meat, Cutlet Vaazhachundu, Cutlet Vegetable, Daudashe, Mango Mappas, Macaroni Chicken Bake, Meat Roll, Noodle Basket, Pista Chicken Bake, Pista Veg Bake, Sandwich Carrot & Egg, Sandwich Cheese Corn, Sandwich Chicken, Sandwich Egg, Sandwich Pudina, Sandwich Sausage, Sandwich Veg, Scotch Egg, Spinach Chicken Roll, Spinach Paneer Roll, Shepherds Pie, Sphagetti Chicken Bake, Sphagetti Veg Bake, Spring Roll Chicken, Spring Roll Veg are classifiable under HSN Code 2106 90 99-Other food preparations not elsewhere specified or included and taxable at the rate of 18% as per Sl.No. 23 of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated

28-6-2017.

Ada Chakka, Ada Pazham, Ada Plain, Ada Ragi, Ada Wheat, Vattayappam, Sharkara Vattayappam, Banana Ball, Banana Fry, Bonda Veg, Chicken Burger, Chicken Cheese Steak, Chilli & Padaval, Chilli Cauliflower, Chirotta, Parippu Vada, Sambar Vada, Sukhiyan, Mini Chicken Samosa, Noodle Chicken Samosa, Noodle Veg Samosa and Punjabi Samosa are classifiable under HSN Code 2106 90 99-Other food preparations not elsewhere specified and liable to GST at the rate of 18% as per Sl.No. 23 of of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Aloo Paratha, Raitha, Aloo Tikki, Appam, Appam Vegetable Mappas, Appam Vegetable Stew, Aromal Rice, Biriyan Channa Potato, Biriyan Vegetable, Button Idli Sambar, Chakka Puttu, Chapathi Veg Mappas, Chappathi Chilli Cauliflower, Chappathi Veg Kuruma, Curd Rice, Curd Vada, Ethakka Kalan, Fried Rice Veg, Fried Rice Veg Chilli Cauliflower, Fried Rice Veg Gobi Manchurian, Fried Rice Veg Paneer Mutter, Ghee Paratha Channa Masala, Ghee Paratha Mushroom Kurma, Ghee Pathiri, Ghee Pathiri Paneer Curry, Ghee Pathiri Veg Kuruma, Gobi Manchurian, Idiyappam, Idiyappam Veg Stew, Idli Chutney, Inchi Curry, Inriappam, Kachil Mulaku Chammanthi, Kappa Biriyan, Kappa Puttu, Kozhukatta, Kozhukatta Ragi, Lemon Rice, Meals (Veg), Methi Paratha Gobi Manchurian Naranga Curry, Pachoru, Paneer Mutter, Parotta, Parotta (Maida) Chilli cauliflower, Parotta (Maida) Paneer Mutter, Parotta (Wheat) Chilli cauliflower, Parotta (Wheat) Gobi Manchurian, Parotta (Wheat) Paneer Mutter, Parotta Veg Curry, Pazha Manga Curry, Puttu Kadala Curry, Sadhya Meals, Tomato Curry, Tomato Rice, Tomato Rice Chilli cauliflower, Uppumavu Potato Roast, Veg Curry are classifiable under HSN Code 2106 90 99-Other food preparations not elsewhere specified or included and is liable to GST at the rate of 18% as per Sl.No. 23 of of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Aloo Paratha Chicken Kuruma, Appam Beef Curry, Appam Chicken Chops, Appam Chicken Stew, Appam Egg Mappas, Barbeque Chicken, Beef Pulavu, Biriyan Chicken, Butter Chicken, Chakka Puttu Egg Fry, Chapathi Beef Curry, Chapathi Butterchicken, Chapathi Chicken Curry, Chapathi Chicken Mappas, Chapathi Chilly Chicken, Chapathi Egg Kuruma, Chapathi Egg Mappas, Chapathi Paneer Mutter, Chapathi Punjabi Chicken,

Chicken Fajita, Chicken Fry, Chicken Noodles, Chicken Quiche, Chicken Shell, Chicken Stew, Chilly Chicken, Dosa Egg Roast, Egg Curry, Fried Rice Chicken Chilli Chicken, Fried Rice Mixed, Fried Rice Mixed Butter Chicken, Fried Rice Mixed Chilli Chicken, Fried Rice Veg Butter Chicken, Fried Rice Veg Chilly Chicken, Ghee Paratha Chicken Curry, Ghee Pathiri Beef Kuruma, Ghee Pathiri Chicken Kuruma, Ghee Rice Chicken Masala, Idiyappam Beef Curry, Idiyappam Chicken Stew, Idiyappam Egg Curry, Kadachakka Garden Chilli Chutney, Kappa Ayala Curry, Kappa Beef Curry, Kappa Boiled Chicken Pirattu, Kappa Chicken Curry, Kappa Meen Peeri, Kozhi Roast, Meals (Meen Peera), Meals (Chicken), Parotta (Maida) Butter Chicken, Parotta (Maida) Chilly Chicken, Parotta (Maida) Egg Masala, Parotta (Maida) Kozhi Roast, Parotta (Wheat) Butter Chicken, Parotta (Wheat) Chilli Chicken, Parotta (Wheat) Egg Masala, Parotta (Wheat) Kozhi Roast, Parotta Beef Curry Special, Parotta Chicken Curry, Parotta Gobi Manchurian, Pidi Kozhi Curry, Puttu Beef Curry, Puttu Chicken Curry, Puttu Egg Curry, Thurki Pathiri, Tomato Rice Chicken Curry, Unakka Kappa Beef Curry, Unakka Kappa Chicken Curry, Unakka Kappa Neymeen Curry, Uppumavu Eggroast, Veg Pulap Chicken Curry are classifiable under HSN Code 2106 90 99-Other food preparations not elsewhere specified or included and is liable to GST at the rate of 18% as per Sl.No. 23 of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Lasagne is classifiable under HSN Code 1902 20 10 and is liable to GST at the rate of 12% as per Sl.No. 32B of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Natural Honey is classifiable under HSN Code 0409 00 00 and is liable to GST at the rate of 5% as per Sl.No. 13 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017 for those put up in unit container and, (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available. Natural Honey other than those put up in unit container and, (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available is exempt from GST as per Sl.No. 29 of Notification No. 02/2017 Central Tax (Rate) dated 28-6-2017.

Cone is classifiable under HSN Code 1905 32 90 and is liable to GST at the rate of 18% as per Sl.No. 16 of Schedule III of Notification No. 01/

2017 Central Tax (Rate) dated 28-6-2017.

Square One Homemade Treats [30-9-2019] (AAR-Ker)

[50] AAR-Ker - Bentonite powder - Mixture of Bentonite powder used for earthing purpose is liable to GST at the rate of 18%.

Ruling : In view of the observations stated above, the following rulings are issued:

(i) *The classification of “Bentonite Powder” while using for electrical earthing (8 kg. and 6 kg. packet) and its effective tax rate.*

Bentonite Powder used for electrical earthing is commercially known as ‘Back Fill Compound’ and it consist of mixture of Bentonite powder, wood charcoal powder, Graphite powder and Sodium sulphate. This mixture is used as an agent for reducing surface tension. Hence it comes under the Heading 3824.99.17 and is taxable at the rate of 18% as per Sl.No. 97 of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

(ii) *Our competitors, selling the Bentonite Powder @ 5% (in electrical shops for earthing purpose), whether it is correct as per the provision of the Act?*

Mixture of Bentonite powder used for earthing purpose is liable to GST at the rate of 18%.

Excel Earthings [12-10-2019] (AAR-Ker)

[51] AAR-Ker - PVC Tufted Coir Mats and Matting - Classifiable under Heading 5703 90 90 and attracts GST at the rate of 12%.

Ruling : The same issue was already examined by this forum in Advance Ruling No. KER/31/2019 dated 1-3-2019. In view of the observations stated above, the following rulings are issued:

i) *Whether or not item number (A)(xiii) in Schedule I - 2.5% (which reads as in Sl.No.219, in column (2), for the figure, “5702, 5703, 5705”, shall be substituted), referred to in Notification No. 34/2017-Central Tax (Rate) dtd. 13-10-2017 is meant to cover PVC Tufted Coir Mats and Matting?*

PVC Tufted Coir Mats and Matting cannot be considered as textile of coir and floor coverings covered under HSN 5702, 5703 and 5705. If any,

PVC or rubber or any other materials are stuffed on the textile of coir, which is used as floor mats or mattings, it will come under the Customs Tariff Head 5703 90 90 and it will be taxed @ 12% GST as per Entry at Sl.No. 144 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

ii) *Whether or not PVC Tufted Coir Mats and Matting attracts low band tax rate of 5% as per the recommendations of the Fitment Committee and approval of the GST Council?*

PVC Tufted Coir Mats and Matting cannot be considered as textile of coir and floor coverings covered under HSN 5702, 5703 and 5705 and hence taxable @12% vide Customs Tariff Head 5703 90 90.

(iii) *Whether or not PVC Tufted Coir Mats and Matting can be classified under tariff item 5703 90 20-carpets and floor coverings of coir (inserted vide Sl.No. 9 (iii) of Notification No. 109/2008-Customs (N.T) dtd.24-9-2008) corresponding to Entry Sl.No.219 of Schedule I attracting 5% GST?*

No.

(iv) *Whether or not PVC Tufted Coir Mats and Matting can be classified under tariff item 5703 90 90-of other textile material - other corresponding to entry in Sl.No. 144 of Schedule II attracting 12% GST?*

Yes.

(v) *PVC Coir Mats & Matting can be classified under tariff item 57050049/57050090-Carpets, carpeting, rugs, mats and matting-Other corresponding to Entry in Sl.No.219 of Schedule I attracting 5% GST?*

The PVC Tufted Coir Mats and Matting are classifiable under Customs Tariff Heading 5703 90 90 and attracts GST at the rate of 12% as per Sl.No. 144 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28-6-2017.

Natural Fibre Tuft [12-10-2019] (AAR-Ker);

Travancore Cocotuft Pvt. Ltd. [12-10-2019] (AAR-Ker)

[52] AAR-Ker - Civil works contract - The concessional rate is not applicable for the works contract services provided as per the work order as Kerala State Electricity Board Ltd. has been established

for carrying out the business of generation, transmission and distribution of electricity in the State of Kerala on commercial principles.

Ruling : In view of the observations stated above, the following rulings are issued:

1. *Whether the rate of CGST for the supplies covered under Work Order No. 06/CECCN/2017-18 dated 6-10-2017 is 6% either under Sl.No.3 (iii) or Sl.No.3 (vi) of Notification No. 11/2017- CT (Rate) dated 28-6-2017?*

No. The rate of 6% under Sl.No.3 (iii) or Sl.No.3 (vi) of Notification No. 11/2017-CT (Rate) dated 28-6-2017 is not applicable for the works contract services supplied by the applicant to Kerala State Electricity Board Ltd. as per the Work Order No. 06/CECCN/2017-18 dated 6-10-2017.

2. *Since the CGST statutory provisions are pari materia with the State GST provisions, whether the rate of SGST is also 6% in terms of notification SRO.No.370/2017 dtd. 30-6-2017 for the supplies covered under Work Order 06/CECCN/2017-18 dated 6-10-2017?*

No, in view of the ruling to 1 above.

**R.S. Development & Constructions India Pvt. Ltd. [12-10-2019]
(AAR-Ker)**

[53] AAR-Ker - Works contract - The work of design, realisation, integration and commissioning of 1.2m Trisonic Wind Tunnel as a turnkey project will fall under the definition of works contract.

Ruling : In view of the observations stated above, the following rulings are issued:

- *Whether the supply under the contract for 'Design, Realisation, Integration and Commissioning of 1.2m Trisonic Wind Tunnel at Vikram Sarabhai Space Centre, ISRO, Thiruvananthapuram can be considered as supply of equipment eligible for the concessional rate of GST under Sl.No.243A of First Schedule of Notification No. 01/2017 Integrated Tax Rate dtd.28-6-2017.*

The supply under the contract cannot be considered as supply of equipment eligible for concessional rate of goods and services tax as per

Sl.No.243B of First Schedule of Notification No. 01/2017 Integrated Tax (Rate) dated 28-6-2017.

- *If the above supply is considered as works contract whether it would be covered under Entry Sl.No.3 of Notification No. 08/2017 Integrated Tax (Rate) dtd. 28-6-2017 as amended by Notification No. 24/2017 Integrated Tax (Rate) dtd. 21-9-2017 attracting GST at the rate of 12%.*

The work of design, realisation, integration and commissioning of 1.2m Trisonic Wind Tunnel as a turnkey project will fall under the definition of works contract under Section 2 (119) of the CGST Act, 2017. The Service provided to the Central Government by way of construction, erection, commissioning, installation, (completion, fitting out, of a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession will attract 12% GST as per Sl.No.3(vi) of Notification No. 08/2017 Integrated Tax (Rate) dated 28-6-2017.

Tata Projects Ltd.[15-10-2019] (AAR-Ker)

APPELLATE AUTHORITY FOR ADVANCE RULING

[54] AAAR-Odisha - Licensing services - Licensing services for the right to use minerals including its exploration and evaluation is taxable @ 18 %

Order : In view of our aforementioned findings, we hereby order that licensing services for the right to use minerals including its exploration and evaluation received by the Applicant is taxable @ 18% [9% CGST and 9% OGST] during 07/2017 to 12/2018. Thus, the reference from the Odisha Authority for Advance Ruling stands disposed of accordingly.

Penguin Trading and Agencies Limited [5-11-2019] (AAAR-Odisha)

[55] AAR-Pun - Parking lot services - The parking services provided by the Contractor appointed by the Market Committee, are not exempt under as the Market Committee is not a Government Authority.

Ruling : Question : Whether the parking lot services provided by the Contractor appointed by the Market Committee, which is a Government

Authority is exempt under Notification No. 12 of 2017 as the parking lot activity is covered under Article 243 of the Constitution.

Answer : The parking services provided by the Contractor appointed by the Market Committee, are not exempt under Notification No. 12/2017 as the Market Committee is not a Government Authority. Marketing Committee (Mandi Board) does not qualify under the definition as provided in clause 2(zf) of the notes appended to Notification No. 12/2017. The activity / services of parking provided by the applicant falls under heading 9967 and attracts GST @ 18% (CGST 9 % + SGST 9 %).

Pushpa Rani Pabbi [6-9-2019] (AAR-Punjab)

[56] AAR-Pun - Works Contract - The works contract services as a sub-contractor in respect of construction contract by the NHA of India attracts GST @ 12%.

Ruling : Question : What is the classification of the 'Works Contract' services pertaining to construction, erection, commissioning and completion of 'Bridges' provided by the applicant as a sub-contractor to the Contractors who have been awarded the construction contract pertaining to construction / widening of roads by the Government Entities such as National Highway Authority of India.

Answer : The services pertaining to construction, erection, commissioning and completion of 'Bridges' provided by the applicant as a sub-contractor in respect of construction contract pertaining to construction / widening of road by the National Highway Authority of India falls under the scope of Serial No. 3(iv) of Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017 (as amended) and attracts GST @ 12% (CGST 6% + SGST 6%).

S.P. Singla Constructions Pvt. Ltd. [6-9-2019] (AAR-Punjab)

[57] AAR-Raj - Registration - The question relating to requirement of GST registration in another State is beyond the jurisdiction of Advance Ruling authority.

Ruling : The question raised by the applicant pertains to GST registration in State of Karnataka, which is beyond the purview of this authority therefore no ruling is given.

T & D Electricals [3-10-2019] (AAR-Raj)

[58] AAR-Raj - Advance Ruling - The issue raised by the applicant is no more in existence - No ruling is required.

Ruling : Since the issue raised by the applicant is no more in existence after issuance of Corrigendum by RRVPNL, no advance ruling is given.

Wonder Cement Limited [10-10-2019] (AAR-Raj)

[59] AAR-Raj - Input tax credit - ITC is not available for construction of an immovable property even when such goods or services or both are used in course or furtherance of business.

Ruling : The applicant is not eligible to claim credit of the GST charged by vendor for supply of goods and services to it, which are used for carrying out the activities (Civil Work and External Developmental Works) for setting up of MRO facility.

Indag Rubber Limited [21-10-2019] (AAR-Raj)

[60] AAR-Raj - Entry Fees - The rate of GST on fee collected for entry into Subhash Udhyan (Municipal Park), ticket charges for Toy Train and for Pedal Boat facility is @18%.

Ruling : The rate of GST on fee collected for entry into Subhash Udhyan (Municipal Park), ticket charges for Toy Train facility and ticket charges for Pedal Boat facility provided in Subhash Udhyan is @18% (SGST 9% +CGST 9%).

Chandmal Narayandas Consortium [24-10-2019] (AAR-Raj)

[61] AAR-Raj - Ancillary Services - The 'Ancillary Services' provided by the applicant to various tour operators taxable @18%.

Ruling : a. The 'Ancillary Services' provided by the applicant to various tour operators falls under Chapter heading 9985 (iii) {Support Services} of Notification No. 11/2017 Central Tax (Rate) dated 28-6-2017 (as amended).

b. The applicable rate of GST for ancillary services provided by the applicant to various tour operators is 18% (SGST 9% + CGST 9%).

Crown Tours and Travels [26-11-2019] (AAR-Raj)

[62] AAR-Raj - Fortified Rice Kernels - Fortified Rice Kernels (FRK) is classifiable under HSN 19049090 and attracts GST @ 18%.

Ruling : Fortified Rice Kernels (FRK), manufactured and supplied by the

applicant is classifiable under HSN 19049090 and attracts GST @ 18% (SGST 9% + CGST 9%).

JVS Foods Pvt. Ltd. [28-11-2019] (AAR-Raj)

[63] AAR-Raj - Manpower services - Exemption available to 'supply of farm labour' services falling under Chapter heading 9986 - Supply of manpower services falling under SAC 99851 is not exempted from GST.

Ruling : • Exemption available to 'supply of farm labour' services falling under Chapter heading 9986 under Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 and Notification No. 09/2017-Integrated Tax (rate) dated 28-6-2017 is not available to supply of manpower services falling under SAC 99851.

• The Question 'b' and 'c' raised by the applicant are beyond the scope of this authority as defined under Section 97(2) of the GST Act, 2017. Hence no ruling is given.

Manju Devi, (M/s. M.D. Enterprises) [18-12-2019] (AAR-Raj)

[64] AAR-Raj - Labour contract - The services of pure labour contract supplied for a civil structure or any other original works under PMAY is exempted from GST.

Ruling : The services provided by way of pure labour contract supplied by the applicant for the construction of flats under Pradhan Mantri Awas Yojana (PMAY) is covered under Entry 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 (as amended).

Sevk Ram Sahu (M/s. S.R.S. Enterprises) [18-12-2019] (AAR-Raj)

[65] AAR-TN - Works Contract - Trisonic Wind Tunnel - The supply under the contract cannot be considered as supply of equipment eligible for concession.

Ruling : The questions raised by the applicant are answered as under:

1. The supply as specified in the contract between the applicant and the ISRO Propulsion Complex Mahendragiri for establishment of Integrated Cryogenic Engine & Stage Test facility wherein both goods and services supplied is a Composite Supply in terms of Section 2(30) of CGST Act, 2017.

2. This supply is a Works Contract in terms of Section 2(119) of CGST and TNGST Act 017 and hence Notification No. 45/2017-Central Tax (Rate) dated 14-11-2017 and corresponding SGST Notification vide G.O.(Ms) No.161, dated 14-11-2017 is not applicable.
3. The entire transaction are taxable at the rate applicable to this supply of works contract.

TATA Projects Limited [15-10-2019] (AAR-TN)

[66] AAR-TN - K Juice Grape - The product is not classifiable as 'Aerated Waters' under CTH 22021010 and is classifiable under CTH '22021090- Other' as it contains the Grape fruit juice with added natural and artificial flavours.

Ruling : 1. Not answered as not covered under Section 97(2) of the Act.

2. The product 'K Juice Grape' falls under the category of "Other" under CTH 2202 10 90. The applicable rate of tax is 14% CGST vide Sl.No. 12 of Schedule IV under Notification No. 1/2017-Central Tax (Rate) and 14% under SGST at 14% vide Sl.No. 12 of Schedule IV under Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29-6-2017 as amended.

3. Not answered as not covered under section 97(2) of the Act.

Kalis Sparkling Water Pvt. Ltd. [17-10-2019] (AAR-TN)

[67] AAR-TN - TDS provision - The Government of Tamil Nadu does not control the applicant, therefore, the applicant is not a person or category of person stipulated under Notification No. 33/2017-C.T. dated 15-9-2017.

Ruling : Central Tax Notification No. 33/2017-C.T. dated 15-9-2017 as amended and State Tax Notification No. II(2)/CTR/783(c-3)/2017 vide G.O. (Ms) No. 107 dated 15-9-2017 as amended is not applicable to the applicant.

Tamil Nadu Coop. Silk Producers Federation Ltd., Ind 944 [22-10-2019] (AAR-TN)

[68] AAR-TN - Health care services - Composite supply of consumables to inpatient by hospital is exempted from CGST and SGST.

Ruling : 1. Medicines, drugs, stents, consumables and implants used in the course of providing health care services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In Patient Healthcare Service.

2. Supply of inpatient health care services by the applicant hospital as defined in Para 2(zg) of Notification No. 12/2017-C.T. (rate) dated 28-6-2017 as amended and Notification No. II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29-6-2017 as amended is exempted from CGST and SGST as per Sl.No. 74 of the above notifications respectively.

CMC Vellore Association [25-11-2019] (AAR-TN)

[69] AAR-TN - Closed PPIs- issued through Third Party PPI issuers - Covered in 'vouchers' and treated as supply of goods.

Ruling : 1. The Own closed PPIs issued by the Applicant are 'vouchers' as defined under CGST/TNGST Act 2017 and are a supply of goods under CGST/TNGST Act 2017.

2. The time of supply of such gift vouchers / gift cards by the applicant to the customers shall be the date of issue of vouchers if the vouchers are specific to any particular goods specified against the voucher. If the gift vouchers/gift cards are redeemable against any goods bought, the time of supply is the date of redemption of voucher.

3. In the case of paper based gift vouchers classifiable under CTH 4911 the applicable rate is 6% CGST as per Sl.No. 132 of Schedule II of the Notification No. 1/2017-C.T.(Rate) dated 28-6-2017 and 6% SGST as per Sl.No. 132 of Schedule II of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29-6-2017 as amended. In the case of gift cards classifiable under CTH 8523 the applicable rate is 9% CGST as per Sl.No. 382 of Schedule III of the Notification No. 1/2017-C.T.(Rate) dated 28-6-2017 and 9% SGST as per Sl.No. 382 of Schedule III of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29-6-2017.

4. The questions raised at sl.No. 4,5,6 and 7 are not answered for the

reason that the said questions are not admitted as this authority does not have jurisdiction.

Kalyan Jewellers India Ltd. [25-11-2019] (AAR-TN)

[70] AAR-TN - Mixed supply - Duty credit scrip - As per Section 8 of the ACT, the rate of tax on mixed supply which is billed at a single price is the rate of the highest rate of the services supplied which is 18%.

Ruling : The supplies made by the applicant as enumerated in the service order of M/s. Sitaraman Shipping Service furnished before us are 'Mixed supply' and the rate of tax is the highest rate applicable to the various services supplied by the applicant which is 9% CGST as per Notification No. 11/2017-C.T.(Rate) dated 28-6-2017 as amended and 9% SGST vide Notification No. II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29-6-2017 as amended.

RB Shah Enterprises India Pvt. Ltd. [25-11-2019] (AAR-TN)

[71] AAR-TN - Input Tax Credit - No ITC is available against any goods or services received for construction of the Marriage Hall on his own account.

Ruling : No Input Tax Credit is available against any goods or services received by the applicant for construction of the Marriage Hall on his own account even if used in course or furtherance of his business of renting the place.

Sree Varalakshmi Mahaal LLP [25-11-2019] (AAR-TN)

[72] AAR-TN - GST Rates for Flour Mixture of Grams, pulses, leguminous vegetable with cereal flour/Rice flour.

Ruling : 1) The product of the applicant are classifiable as under :

- Type I (Flour of Grams-80%, Flour of Maize-10% and Flour of rice-10%) - CTH 11061090;
- Type II (Flour of Grams-70%, Flour of Peas-10%, Flour of Maize-10% and Flour of Rice-10%) - CTH 11061090;
- Type III (Flour of Grams-50%, flour of Peas-20%, Flour of Maize-20% and Flour of Rice-10%) - CTH 11061090

- Type IV (Flour of Peas-70%, Flour of Maize-15% and Flour of Rice-15%) - CTH 11061090
 - Type V (Flour of Grams-25%, Flour of Peas-25%, Flour of Maize-25% and Flour of Rice-25%) - CTH 11061090
 - Type VI (Flour of Rice-95% and Flour of Urad-5%) – CTH 11029090
- 2) The applicable rate of tax is :
- a. If the products are packed with such a registered Trade Mark in unit containers, the rate of tax will be :
 - i. Type I, II, III, IV and V (CTH 11061090) - 2.5% CGST as per Sl.No. 59 of Schedule I of the Notification No. 1/2017-C.T.(Rate) dated 28-6-2017 as amended and 2.5% SGST as per Sl.No. 59 of Schedule I of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29-6-2017 as amended.
 - ii. Type VI (CTH 11029090) : 2.5% CGST as per Sl.No. 55 of Schedule I of the Notification No. 1/2017-C.T.(Rate) dated 28-6-2017 as amended and 2.5% SGST as per Sl.No. 55 of Schedule I of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29-6-2017 as amended.
 - b. If the products are packed without a registered brand name, the rate of tax will be:
 - i. Type I, II, III, IV and V (CTH 11061090) - nil CGST as per Sl.No. 78 of the Notification No. 2/2017-C.T.(Rate) dated 28-6-2017 as amended and nil SGST as per Sl.No. 78 of Notification No. II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29-6-2017 as amended.
 - ii. Type VI (CTH 11029090) : nil CGST as per Sl.No. 74 of the Notification No. 2/2017-C.T.(Rate) dated 28-6-2017 as amended and nil SGST as per Sl.No. 74 of Notification No. II(2)/CTR/532(d-5)/2017 vide G.O (Ms) No. 63 dated 29-6-2017 as amended.

Chellasamy Nadar Deivarajan (M/s. Mahalakshmi Store) [23-12-2019] (AAR-TN)

[73] AAR-TN - NFC Board - NFC Board manufactured by the applicant with main content as Rice husk, will more appropriately be classified under CTH 441193.

Ruling : “Indowud Natural Fibre Composite (NFC) Board” manufactured

by the applicant merits classification under Chapter 441193 of the Customs Tariff and attracts 6% CGST as per S.No. 92 of Schedule II under Notification 1/2017-Central Tax (Rate) Dt. 28-6-2017 and 6% SGST under Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated: 29-6-2017 as amended.

Papaka Herbs & Spices Pvt. Ltd. [23-12-2019] (AAR-TN)

APPELLATE AUTHORITY FOR ADVANCE RULING

[74] AAAR-TN - Input tax credit - The appellant is eligible to avail full ITC of tax paid by SML HO on the lease/hire of cranes to them for furtherance of business.

Ruling : The appellant is eligible to avail full Input tax credit of tax paid by SML HO on the lease/hire of cranes to them for furtherance of business, subject to other conditions of eligibility to such credit as per Section 16 of CGST/TNGST Act 2017.

Sanghvi Movers Limited [13-11-2019] (AAAR-TN)

APPELLATE AUTHORITY FOR ADVANCE RULING

[75] AAAR-TN - Value in respect of supply - Determination of value to be adopted in respect of transfer to branches located outside the State - The Appellate Authority set aside the original advance ruling and held that when the supply is to the distinct person of the appellant and the recipient is eligible for full Input tax credit, the second proviso provides the value declared in the invoice to be the 'open market value' for such transaction.

Ruling : The appellant is eligible to adopt the value as per Second Proviso to Rule 28 of the CGST/TNGST Rules 2017, at the time of supply of goods from the State of Tamilnadu in the terms of the scenario discussed, in as much as the recipient distinct person is eligible for full Input Tax credit as required under the said proviso.

Specsmakers Opticians Pvt. Ltd. [13-11-2019] (AAAR-TN)

[76] AAR-Uttara - Refund of inverted duty structure - When a requisite notification has been issued under a particular section, the provisions of said section spring into operation and an assessee, who

is covered by the provisions of that section, is entitled to seek benefits there under.

Order : 8. In view of the above discussion & findings we hold that Notification No. 20/2018-Central Tax (Rate) dated 26-7-2018 deals with refund of inverted duty structure only.

Uttranchal Filament (India) [12-6-2019] (AAR-Uttara)

[77] AAR-Uttara - Advance Ruling - The question raised in the application is pending with SGST Authorities - Application rejected.

Ruling: 9. Thus we observe that since the question raised in the application is pending with SGST Authorities under the provisions of this Act, therefore as per proviso to section 98(2) of the Act the said application filed by the applicant is hereby not admitted.

G.B. Pant University of Agriculture and Technology [18-10-2019] (AAR-Uttara)

[78] AAR-Uttara - Rubber Pad - Rubber Pad falls Under Chapter 4016 taxable @ 18%.

Order : i. “Rubber Pad” falls Under Chapter 4016 of the GST Tariff Act, 2017.

ii. GST @ 18% as on date is applicable on “Rubber Pad”.

V.K. Enterprises [10-12-2019] (AAR-Uttara)

[79] AAR-WB - Supply of goods through PDS is not exempt - The Applicant is liable to pay GST.

Ruling : The Applicant is liable to pay GST at the applicable rate on his supplies of goods through PDS.

Dipeet Agarwal [11-11-2019] (AAR-WB)

[80] AAR-WB - Fusible interlining cloth - Classifiable under Heading 5903 in Chapter 59 - Ruling upheld by Appellate Authority.

Ruling : The Applicant’s product, namely fusible interlining cloth, is classifiable under Heading 5903 in Chapter 59 of the First Schedule of the Customs Tariff Act, 1975.

Sadguru Seva Paridhan Pvt. Ltd. [11-11-2019] (AAR-WB)

APPELLATE AUTHORITY FOR ADVANCE RULING

[81] AAAR-WB - Fusible interlining cloth - Classifiable under Heading 5903 in Chapter 59 - Appellate Authority upheld the WBAAR's Ruling.

12. The appellant has heavily relied upon the decision of **Goodswear fashion Pvt. Ltd.** reported in (2019) 23 GSTL 154 (AAR-GST). On perusal of the decision of the said decision of the AAR, Uttarakhand, it is seen that it has not taken into account the relevant circulars of CBEC relating to classification of fusible interlining cloth and hence it cannot be said to reflect the true legal position on this issue.

13. In view of the above discussions, we find no merit in the instant appeal. We dismiss the appeal filed by M/s. Sadguru Seva Paridhan Pvt. Ltd. and uphold the WBAAR's Ruling No. 33/WBAAR/2019-20 dated 11-11-2019.

Sadguru Seva Paridhan Pvt. Ltd. [19-3-2020] (AAAR-WB)

[82] AAR-WB - Foreign going vessels - Supply of stores to foreign going vessels is not export or zero-rated supply, unless it is marked specifically for a location outside India.

Ruling : The Applicant's supply of stores to foreign going vessels, as defined under section 2(21) of the Customs Act, 1962 Act, is not export or zero-rated supply, unless it is marked specifically for a location outside India. The Applicant is, therefore, liable to pay tax on such supplies under the GST Act or the IGST Act, as the case may be.

[However, the Applicant's supplies to the foreign going vessels shall be treated neither as a supply of goods nor services in terms of paragraph 8(a) of Schedule III under section 7(2)(a) of the GST Act if such stores are warehoused goods supplied to the recipient before clearance for home consumption].

[This is Amended order after rectification]

Shewratan Company (Post rectified) [11-11-2019] (AAR-WB)

[83] AAR-WB - Bonus - The Applicant is liable to pay GST on the portion of the payment received on account of the bonus paid or payable to the persons it deploys as security personnel.

Ruling : The Applicant is liable to pay GST on the portion of the payment received on account of the bonus paid or payable to the persons it deploys as security personnel.

Ex-servicemen Resettlement Society [29-11-2019] (AAR-WB)

[84] AAR-WB - Baked food preparations made of flour and contain chicken - Classified under HSN 1601, provided they contain more than 20% by weight of meat.

Ruling : The Application is admitted for the products that belong to the category of baked food preparations made of flour and contain chicken and mentioned under Sl.Nos. 1 to 5 and 11 to 25 of the Table in para 1.5 above.

Chicken meat is used as a filling in most of the above products where bread or baked flour is used as the base. The baked product (sandwich, puff, patty, burger etc.) as distinct food preparations will survive even if the chicken meat is excluded from the filling. They are, therefore, not food preparations based on chicken meat. Such bakers' wares cannot, therefore, be classified under HSN 1601.

A few of the Applicant's products would not survive as food preparation if the chicken meat were removed. Such products may be classified under HSN 1601, provided they contain more than 20% by weight of meat.

Switz Foods Pvt. Ltd. [9-12-2019] (AAR-WB)

[85] AAR-WB - Non-edible intermediary product for confectionery industry - Supply of a mixture and dough of wheat flour, sugar and water, cut into specific shape, which is dried and hardened by heating classifiable under tariff item 1901 20 00.

Ruling : The Applicant is supplying a mixture and dough of wheat flour, sugar and water, cut into specific shape, which is dried and hardened by heating. It is classifiable under tariff item 1901 20 00.

Ambo Agritec Pvt. Ltd. [24-12-2019] (AAR-WB)

[86] AAR-WB - Contract involving several services - Printing service (SAC 998912) and intermediary service for selling space for advertisement on behalf of the club (SAC 998362) - It shall be treated as supply of the above intermediary service taxable @ 18%.

Ruling : The Applicant is making a mixed supply to the Tollygunge Club of printing service (SAC 998912) and intermediary service for selling space for advertisement on behalf of the club (SAC 998362). It shall be treated as supply of the above intermediary service taxable @ 18% under Sl.No. 21 (ii) of Notification No. 11/2017-CT (Rate) dated 28-6-2017 (corresponding State Notification No. 1135-FT dated 28-6-2017), as amended from time to time.

Infobase Services Pvt. Ltd. [24-12-2019] (AAR-WB)

APPELLATE AUTHORITY FOR ADVANCE RULING

[87] AAAR-WB - Improvement and modification of land for future construction - It is not a case of composite supply where principal supply constitutes of sand, but a case of transfer of property in goods in course of site preparation for construction of the New Central Correctional Home - Advance Ruling approved by Appellate Authority.

In view of above, we find no infirmity in the ruling pronounced by the West Bengal Authority for Advance Ruling in the matter and hence there is no reason to interfere with it.

The appeal thus fails and stands disposed of accordingly.

Ashis Ghosh [21-11-2019] (AAAR-WB)

APPELLATE AUTHORITY FOR ADVANCE RULING

[88] AAAR-WB - Mobilization advance - Part of the mobilisation advance remaining unadjusted on 1-7-2017 chargeable under the GST Act - Section 13(2) of the GST Act, 2017 will not be applicable - Advance Ruling approved by Appellate Authority.

In view of above discussion we find no infirmity in the ruling pronounced by the WBAAR.

The appeal thus fails and stands disposed accordingly.

Siemens Limited [16-12-2019] (AAAR-WB)

APPELLATE AUTHORITY FOR ADVANCE RULING

[89] AAAR-WB - Printing - Job of printing of content provided by the customer - Content is exclusively the property of the client who entrusts the job to the Appellant and the usage right of the content remains with the client - Appellant supplies is nothing but service - Appellate Authority approved the Advance Ruling.

In view of above discussion we find no infirmity in the ruling pronounced by the WBAAR.

The appeal thus fails and stands disposed accordingly.

Macro Media Digital Imaging Pvt. Ltd. [17-12-2019] (AAAR-WB)

APPELLATE AUTHORITY FOR ADVANCE RULING

[90] AAAR-WB - HDPE woven tarpaulins - HDPE woven fabric is not a textile material and does not merit classification under HSN 5903 - Appellate Authority approved the Advance Ruling.

In view of above discussion we find no infirmity in the ruling pronounced by the WBAAR.

The appeal thus fails and stands disposed accordingly.

East Hooghly Agro Plantation Pvt. Ltd. [23-12-2019] (AAAR-WB)

APPELLATE AUTHORITY FOR ADVANCE RULING

[91] AAAR-WB - Stevedore - Loading and unloading services to imported raw whole yellow peas - The primary market in the instant case being located in foreign shores - All services and processes are excluded beyond the primary market - Appellate Authority approved the Advance Ruling.

AAAR-WB - Raw whole yellow peas - Raw whole yellow peas are agricultural produce covered under serial no. 45 of the Rate Notification and are exempted goods - Appellate Authority approved the Advance Ruling.

In view of above discussion we find no infirmity in the ruling pronounced by the WBAAR.

The appeal thus fails and stands disposed accordingly.

T.P. Roy Chowdhury & Company Pvt. Ltd. [23-12-2019] (AAAR-WB)

[92] AAR-WB - Leasing of goods transport vehicles without operators to GTA - The service is classifiable under SAC 997311 as leasing or rental services concerning transport equipment without operator - It amounts to the transfer of the right to use the goods and taxable.

Ruling : The Applicant's service of leasing goods transport vehicles is classifiable under SAC 997311 and taxable under Sl.No. 17(iii) of Notification No. 11/2017-CT (Rate) dated 28-6-2017 (corresponding State No. 1135-FT dated 28-6-2017), as amended.

The Applicant can claim input tax credit in accordance with law on the goods transport vehicles so leased out.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

Ishan Resins & Paints Limited [17-1-2020] (AAR-WB)

[93] AAR-WB - Service of crushing food grains - The Applicant's supply can be related to distribution through PDS and its supply to the State Government should be exempt provided the proportion of the packing materials in the composite supply in value terms does not exceed 25%.

Ruling : If the Applicant's agreement with the State Government binds both the supplier and the recipient in such a way that neither can divert the food grains to any use other than distribution through PDS, the Applicant's composite supply of crushing the food grains belonging to the State Government and delivery of the crushed grains will be exempt under Sl.No. 3A of Notification No. 12/2017 CT (Rate) dated 28-6-2017 (corresponding State Notification No. 1136-FT dated 28-6-2017), as amended, provided the proportion of the packing materials in the composite supply in value terms does not exceed 25%.

Sakshi Jhajharia [10-2-2020] (AAR-WB)

Note : For full text of the Orders of the Advance Ruling Authority please visit : www.dineshgangrade.com

(2020) 65 TLD 140

Before the Appellate Authority for Advance
Ruling, GST Himachal Pradesh
Rohit Chauhan, Member
K.B Enterprises
Vs.

The Assistant Commissioner State Taxes & Excise, Chamba H.P.

Appeal No. : 001/2019

December 7, 2019

Deposition : In favour of Applicant

AAAR-HP - Penalty - Section 129 of CGST Act, 2017 - Circular No. 64/38/2018 dated 14-9-2018 - In case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated in case of minor mistakes like error in one or two digits/characters of the vehicle number - Penalty imposed in the instant case under Section 129 was unwarranted.

Cases referred :

- * Commissioner of C.Ex. & Cus., Aurangabad Vs. Sidheshwar SSK Ltd.
 - * Commissioner of Central Excise Vs. Addi Alloys 2000 (122) ELT 526 (Tri)
- Sh. Pankaj Arora (Ld. Adv.) for the appellant.
Sh. Nutan Mahajan, The Assistant Commissioner State Taxes & Excise (ACSTE), Chamba for the respondent.

:: ORDER ::

(Appeal U/s 107 of CGST Act, 2017 and HPGST Act, 2017 read with rule-108 of Himachal Pradesh Goods & Service Tax Rules, 2017)

At the outset, I would like to make it clear that the provisions of both the Himachal Pradesh Goods and Service Tax Act, 2017 and Central Goods & Service Tax Act, 2017 (thereinafter referred to as HPGST Act and CGST Act respectively) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the HPGST Act would also mean a reference to the corresponding similar provisions under the CGST Act.

2. The above appeal has been filed against the order dated 3-12-2018 passed by the Asst. Commissioner State Taxes & Excise Officer-cum-Proper

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Officer, Chamba vide which an additional demand of Rs. 4,90,908/- (Four Lakhs, Ninety thousand, Nine Hundred and Eight Rupees Only) was created against the appellant under Section 20 of HPGST Act, 2019 read with section 129 of the HPGST, 2017.

3. The present appeal was filed before the Addl. Commissioner Cum-first - Appellate Authority, State Goods & Service Tax, Himachal Pradesh on 10th Jan., 2019. The appeal was taken up for preliminary hearing admission on 4-2-2019. On the day of hearing Sh. Pankaj Arora (Ld. Adv.) and Sh. Tarsem Sharma, Superintendent Chamba were present. Since the appeal was found in order, it was admitted and the departmental representative was directed to file written arguments in the case. Thereafter the case was heard on 26-2-2019 and 15-3-2019. Final hearing was held on 1-11-2019. On this date Sh. Nutan Mahajan, Asstt. Commissioner of State Taxes & Excise Chamba and Sh. Pankaj Arora (Ld. Adv.) were present. The case was heard and the judgment was reserved.

4. The brief facts of the case are:-

(i) That the appellant M/s. K.B. Enterprises is a registered taxpayer vide GSTIN 02AEQPG0186F1ZS and is engaged in supply of taxable goods falling under chapter 24 of GST Tariff Act. The nature of business is wholesale and retail business.

(ii) That the appellant had sold Beedi having chapter heading 2403 vide invoice number KBE/1073 dated 29-11-2018 total value of Rupees 8,76,604 and levying CGST and SGST for Rs. 1,22,727/- each. The Vehicle No. **HP 32A 3097** was carrying goods to transport the same to the purchasing dealer M/s. Kaka Ram, Radhey Shyam Chamba, having GSTIN 02AANPL8404E1ZZ.

(iii) That the said vehicle was intercepted for checking by the Assistant Commissioner of State Taxes & Excise Chamba, and his staff on dated 1-12-2018. The driver/person in-charge of the vehicle had tendered the documents accompanying the vehicle such as invoice, Goods Receipt Note, E-way Bill in respect of the consignment.

(iv) That on scrutiny of the documents provided by the driver person/in-charge of the vehicle, the ACST&E found all the documents were in order except the mistake in vehicle No. mentioned as **HP 32A1597** in part-B of the E-Way Bill No. 301067898208.

(v) That the goods were detained by commercial tax officer vide detention order GST MOV-06 dated 1-12-2018 Under Section 129(1) of the CGST/HPGST Act. Accordingly, the appellant got present before the detaining authority and stated that inadvertently a clerical mistake got happened while generation of E-Way Bill.

(vi) That the Ld. ACST&E did not heed to prayer and submission of the Appellant and imposed a penalty under section 129(1) of CGST/HPGST Act, 2017. Being aggrieved with the order, the Appellant filed the present appeal.

5. Ground of Appeal

At the outset, the Appellant most respectfully submitted that the Ld. Asstt. Commissioner of State Taxes and Excise of State Goods and Service Tax, Chamba, in complete disregard of the CGST Act as well as HPGST Act, 2017 and the submissions made before him by the Appellant, has passed the impugned Order and hence, it needs to be set aside.

(A) ALL MATERIAL PARTICULARS OF THE INVOICE AND GOODS ARE MATCHING.

A.1 It is submitted that the Ld. Adjudicating Authority while confirming the demand and imposing the penalty has not considered the fact that the physical characteristics of the goods detained by them were in consonance with tax invoice, Gr and E-Way - bill particulars as per Annexure-3. There was no deviation from the goods declared in the invoice and the goods transported by the appellant. The goods detained were accompanied by a valid E-Way except the Part B was not having correct vehicle No. HP32A3097, the vehicle No. was written as HP 32A1597 in Part-B. The appellant has followed all the conditions and nothing adverse is available on the record that the appellant wanted to evade any tax during the movement of goods.

A.2 The departments contention that there is mandatory requirement of filing all details accurately in part-B of the E-way Bill is not correct, as minor penalty can be imposed only if there is any minor mistake in Part B, and it is not be seen in oblivion, other aspects of the E-Way Bill are also to be looked upon.

A.3 The Part A of the E-Way bill has been properly filed depicting the HSN, Quantity, Description of goods along with Price of Goods and the amount of Tax charged in terms of the movement of goods from one place to another

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both belonging to the appellant.

A.4 The appellant has made all the entries of the above said transaction in its books of accounts and the tax and supply has been properly accounted for. Further, the record of Part A of E-way Bill generated by the appellant is available on the GST portal. Given this the intention to evade tax could not be attributed to the appellant. Therefore the penalty should be imposed on the Appellant.

A.5 The Rule of the CGST Rules, 2017 provides the procedure for movement of the Goods. The relevant extract of Rule 138 of the CGST Rules, 2017 is reproduced as under:-

138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill.-

(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees-

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal.

Provided also that where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment:

Provided also that where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

[Explanation 1. - For the purposes of this rule, the expression - handicraft goods has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No. 56/2018-Central Tax, dated the 23rd October, 2018, published in the Gazette of India, Extraordinary, Part II,

Section 3, Sub-section (1), vide number G.S.R 1056 (E), dated the 23rd October, 2018 as amended from time to time.]

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01:

Provided that the registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

A.6 On perusal of the Rule 138 of CGST Rules it can be seen that the primary basis for movement of goods is PART A of the E-Way Bill and the utmost importance of the same cannot be undermined. The PART B is just the ratification of PART A by way of addition/updation of information about the details of the vehicle only.

A.7 that is submitted that wrong filing of vehicle details in PART B was an inadvertent mistake and the does not render the whole transaction as illegal one. The harsh stance cannot be taken on it by the department.

A.8 It is well settled by the various authorities and courts that substantive benefit could not be denied for procedural mistakes in the present case of mistake of vehicle No. in Part B is an inadvertent and procedural mistake. The Appellant should not be penalized for the same in the absence of any intention to evade tax.

A.9 That in case of **Commissioner of Central Excise V/s. Addi alloys Pvt. Ltd. 2000 (122) E.L.T. 526 (tribunal)**, the H'ble Tribunal has held that:-

Modvat credit under Rule 57A cannot be denied on the ground that the manufacturer failed to file D-3 declaration in accordance with the

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directions given in the Commissionerate Trade Notice- Rules 57A of the Central Excise Rules, 1944. [para 6].

A.10 In view of above the penalty imposed on the Appellant is not sustainable and liable to be set aside in the interest of justice.

(B) CIRCULAR PROVIDES FOR THE MINOR PENALTIES IN CASE OF MINOR MISTAKES.

B.1 It is well settled principal that the revenue authorities has to ascertain implication of revenue involved in breach of any procedure of the tax statute. The tax authorities can overlook small mistake in procedure when there is lack of loss of revenue in given transaction.

B.2 That the goods in question i.e. Beedi was being sent to M/s. Kaka Ram Radhey Shyam Chamba, Himachal Pradesh holding GST registration number 02AANPL8404E1ZZ on a proper invoice and valid E-Way Bill except a minor mistake in the E-Way Bill generated by the appellant.

B.3 It is submitted that the GST Council had issued a circular vide **No. 64/38/2018** Dt. 14th Sep., 2018 under CGST Act 2017, modifying the procedure of interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and confiscation of such goods and conveyances, as clarified in circular **No. 41/15/2018-GST** Dated 13-4-2018 and **49/23/2018-GST** dated 21-6-2018. The relevant provisions of the circular have been enumerated as below:-

4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;

b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;

c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;

d) Error in one or two digits of the document number mentioned in the e-way bill;

e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;

f) Error in one or two digits/characters of the vehicle number.

6. In case of the above situation penalty to the tune of Rs. 500/-each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

B.4 That the above cited provisions of the circular clearly states that in case, where there is mistake of one or two digits/characters of the vehicle number, the maximum penalty imposable is Rs. 500/- in each Act i.e. Rs. 500/- for CGST and Rs. 500/- for SGST Act.

(C) ORDER PASSED WITHOUT SHOW CAUSE NOTICE BY ADJUDICATING OFFICER ARE INVALID AS THE SAME IS AGAINST THE PRINCIPAL OF NATURAL JUSTICE.

C.1 That as per the section 129 of the CGST Act 2017, it has been observed that the mandatory requirement of issuing show cause notice has been followed in the present case. The relevant extract of the Section 129 of the CGST/HPGST 2017 Act is as under:-

Detention, seizure and release of goods and conveyances in transit.

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129. (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,-

(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed: Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

(2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.

(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).

(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.

(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

C.2 Reliance is also place on the judgment of Hon'ble Tribunal in case of **COMMISSIONER OF C.EX. & CUS., AURANGABAD Vs. SIDHESHWAR SSK LTD.** wherein it was held that it is not open for Department to by-pass legal requirement of issuance of SCN before conclusion of adjudication proceedings. The Department not to find out short-cut method. The relevant extract is reproduced below.

“When the law clearly required issuance of the show cause notice before the conclusion of the adjudication proceedings, it is not open to the department to by pass such legal requirement and find out short-cut method.”

C.3 In view of above submission the order denying the refund to the Appellant without issuance of SCN is not sustainable and liable to be dropped in the interest of Justice.

C.4 Since, in the present case the impugned orders have been passed without following the procedure as defined under Section 129 of the CGST Act, 2017.

C.5 On perusal of above provisions it can be easily accredited that the on tax and Penalty imposed is totally unacceptable and both the orders of Tax as well as penalty are totally devoid of merits and, are against the principal of natural justice and shall be treated as null and void on the basis of statutory mandate.

(D) SAME TRANSACTION CANNOT BE TAXED TWICE

D.1 It is submitted that the basic purpose behind bringing GST in to the Indian economy is to remove cascading effects, avoid double taxation double taxation and free flow of credit in the system.

D.2 It is submitted that in the present case the Appellant has already discharged IGST on the entire value of the goods supplied to the Chamba dealer and the Ld/ Adjudicating Authority despite being aware of the said

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fact, has proceeded to confirm the demand of CGST and HPGST, against the Appellant. As the supplier of Appellant has already discharged the CGST/HPGST on the impugned goods, the confirmation of the demand of tax penalty under CGST and HPGST leads to double taxation and is totally unjustified.

D.3 It is pertinent to mention here that the as per the provisions of Section 129, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this act or rules, the person is liable to pay applicable tax along with penalty, the relevant extract is reproduced below:

(a) on payment of applicable tax and penalty equal to one hundred percent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two percent of the value of such goods or twenty five thousand rupees, whichever is less, wherever the owner of goods come forward for payment of such tax and penalty.

D.4 In the present case, as the Applicable tax i.e. CGST/ HPGST already stands paid by the Supplier of the goods, the same cannot be demanded from the Appellant again stands paid by the Supplier of the goods, the same cannot be demanded from the Appellant again and therefore, the demand of CGST and HPGST confirmed by the Ld. Adjudicating Authority leads to a scenario of double taxation, which is neither the intention nor the mandate of the GST law.

D.5 That the said action of imposing the double tax on single transaction also violates the basic principles of equity enshrined in the constitution of India and at the same time devoid, the appellant of right of natural justice.

D.6 Given this the demand confirmed vide impugned order is not stainable and liable to be set aside in the interest of justice.

The appellant prayed to set aside the impugned order passed by the Ld. Assistant Commissioner of State Taxes and Excise, Chamba and has requested to pass an order of refund of tax and penalty deposited by the appellant against the said order.

XXXXX

6. In the reply of the above grounds of appeal, respondent Sh. Nutan Mahajan ACSTE Chamba has submitted following points:-

A.1 That on dated 1-12-2018 at 05:00 at a place namely Gate in Distt. Chamba, H.P. during roadside checking, vehicle No. HP-32A-3097 was intercepted by the checking team and the Driver-cum-person in charge of the conveyance and goods, Sh. Bhoop Singh was asked to produce the documents pertaining to goods loaded in the vehicle. He produced Tax Invoice No. KBE/1073 dated 29-11-2018 for bidies/ goods amounting to Rs. 11,22,079/- and E-Way Bill. When the E-Way bill was verified for Part-B, the vehicle No. was found entered wrong as HP32A-1597. This number of vehicle (HP32A-1597) is also verified in the E-Way Bill Officer login and then it is found that this vehicle was engaged in another consignment being transported from Baggi (Distt. Mandi) to Balh (Distt. Mandi) having E-Way Bill No. 3310 6862 1194 dated: 1-12-2018 time 04:03 pm.

A.2 Para is denied as Rule 138 (5A) envisages as “The consignor or the recipient, who has furnished the information in Part-A of FORM GST EWB-01, or the transporter, may assign the E-Way bill number to another registered or enrolled transporter for updating the information in part-B of FORM GST EWB-01 for further movement of consignment:

Provided that once the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case may be, who has furnished the information in Part-A of FORM GST EWB-01 shall not be allowed to assign the E-Way bill number to another transporter.” Whereas vehicle No. (HP32A-1597) was verified in the E-Way bill Officer Login, then it was found that this vehicle was engaged in another consignment being transported from Baggi (Distt. Mandi) to Balh (Distt. Mandi) having E-Way Bill No. 3310 6862 1194 Dated: 1-12-2018 time: 04:03 pm valid up to 2-12-2018.

A.3 Para is denied as per Rule 138 (3); Explanation (2), reproduced as “The E-Way Bill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished except in the case of movements covered under the third proviso to sub-rule(3).” The third proviso to sub-rule(3) of Rule 138 states as “Provided also that where the goods are transported for a distance for less than ten kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.”

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A.4 Para is denied as sub rule (9) of Rule 138 reproduced as “Where an E-Way bill has been generated under this rule, but goods are either not transported or are not transported or not transported as per the details furnished in the E-Way bill, there E-Way bill may be cancelled electronically on the common portal, within 24 hours of generation of the E-Way bill:

Provided that an E-Way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B:

Provided further the unique number generated under sub-rule (1) shall be valid for 72 hours for updation of part B of FORM GST EWB-01”.

B.1 The Adjudicating Authority has rightly imposed penalty u/s 129 of the Acts ibid as there was an intention to evade the tax.

B.2 There was a deliberate attempt to evade the tax on the pretext of minor mistake and penalty has rightly been imposed.

B.3 It is pertinent to mention here that appellant firm owns a fleet of Goods carrier vehicles which are being used for transportation of goods and the Registration number wise details of these vehicles are HP-32A-1297, HP-32A-1597, HP-32A-2197, HP32A-3097 and HP-32B-1297. The last two digits of all these vehicles are ending with “97” and all other details are identical except in one case alphabet “B” is there. Such vehicles are invariably used for dispatch of outward supply of goods. To generate the E Way Bill against a different Vehicle number and carry the same bulk of consignments in other vehicles against the strength of the e-way bill generated with different vehicle details and seeking the benefit of doubt, at the pretext of clerical mistake in mentioning of vehicle No. as per provisions made in this regard vide Circular No 64/38/2018-GST Dated 14-9-2018 and thus demanding relaxation in invoking of provision of sec 129(1), has been held to be modus operandi followed by the appellant to design / fabricate the goods delivery system for supplying more than one consignment against the strength of a single e-way bill and by doing so the said firm has misled the checking team by claiming the clerical mistake in Vehicle No. e- way bill. Vide Para 5 of circular supra, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e way bill, proceeding under sec 129 of the CGST Act “may” not be initiated, inter alia in following situations:

f) Error in one or two digits / characters of the vehicle number.

The use of term “**may**” signifies that it has left the proper Officer in using his discretion in non-invoking the provisions of Sec. 129(1) rather it seems to be advisory in nature and therefore the said circular, does not make the Adjudication Officer, legally bound to relax the invoking of the provisions of Sec. 129(1).

C.1 As pointed out earlier also, the vehicle along with goods was detained after following all the procedure for interception of conveyances for inspection of goods in movement, and detention of such goods and conveyances as per Circular No. 41/15/2018-GST dated 13-4-2018. Show Cause Notice in MOV-07 was duly issued and the Appellant Taxpayer deposited the tax and penalty after receipt of orders in MOV-09 after given due opportunity of being heard. The vehicle no HP32A-1597, which was found entered in e-way bill No. 3010 6789 8208 dated 29-11-2018 **at the time of inspection on 1-12-2018 at 5:00 PM**, was engaged in another consignment being transported from Baggi (Distt. Mandi) to Balh (Distt. Mandi) having eWay Bill No. 3310 6862 1194 Dated: 1-12-2018 time: 04:03 PM and taxpayer could not forward any explanation for this anomaly.

C.2 The Show Cause Notice in MOV-07 was duly served.

C.3 The order in MOV-09 has been rightly passed by the Adjudicating Authority.

C.4 As pointed out earlier also, procedure for interception of conveyances for inspection of goods in movement, and detention of such goods and conveyances as per Circular No. 41/15/2018-GST dated 13-4-2018 has been duly followed and penalty u/s 129 of the act *ibid* has rightly been imposed.

C.5 The penalty orders have been passed by the Adjudicating Authority after following due procedure and after given due opportunity of being heard and are on the principal of natural justice.

D.1 Accepted.

D.2 There is an attempt on part of the Appellant Taxpayer to evade tax and therefore, penalty along with applicable tax under section 129 (1) (a) of the Act *ibid* has rightly been imposed by the Adjudication Authority.

D.3 The Appellant Taxpayer has quoted the extract of Section 129 (1) (a) and the facts of the case have already been mentioned earlier.

D.4 Since, there is an attempt on part of the Appellant Taxpayer to evade

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tax and therefore, penalty along with applicable tax under section 129 (1) (a) of the Act ibid has rightly been imposed by the Adjudication Authority.

D.5 As already pointed out, the taxpayer has attempted to evade the tax and therefore, applicable tax along with penalty under section 129 (1) (a) of the Act ibid has rightly been imposed by the Adjudication Authority.

D.6 The Orders are as per law and sustainable and have been passed after given due opportunity of being heard.

XXXXX

7. In the view of above discussions I am of considerate opinion that the penalty imposed in the instant case under section 129 was unwarranted. **GST Council vide circular No. 64/38/2018 dated 14th September, 2018 and the HP circular No. 12-25/2018-19-EXN-GST-(575)-6009-6026 dtd. 13th March 2019 valid from 14-9-2018 in para 5** provides that in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated in case of minor mistakes like error in one or two digits/characters of the vehicle number. Further Para 6 of the said circular states that in case of minor errors mentioned in Para 5, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective HPSGST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. Further, the submission of Ld. respondent that the circular of CBIC dtd. 14-9-2018 and the circular under the HPGST act is advisory in nature and not implementable by the proper officer is not acceptable. The said circular and the subsequent notification under the HPGST Act have to be followed and the benefit cannot be denied to the appellant for paltry errors of two digits in the vehicle number. The e-way bill has been duly generated and no mistake has been found in all other information entered in the EWB. The respondents have also not been able to prove beyond doubt nor submit any substantial evidence that the appellant was adopting the system of wrong mentioning of vehicle numbers in the EWB as their modus operandi to evade taxes.

8. Therefore, keeping in view the above stated facts the orders of ACST&E, Chamba are set-aside on the ground that the standard operating procedure mentioned in Circular No. 64/38/2018 dated 14th September, 2018 and the HP circular No. 12-25/2018-19-EXN-GST-(575)-6009-6026 dtd. 13th March 2019 valid from 14-9-2018 was not taken into

consideration while imposing penalty in the instant case. The additional demand deposited by the appellant may be refunded and the penalty of Rs. 500/- under SGST and Rs. 500/- under CGST under section 125 of CGST/HPGST Act, 2017 is imposed on the taxpayer in accordance to GST Circular. The judgment in this case was reserved on 1-11-2019 which is released today.

Parties be informed accordingly.



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Before the Appellate Authority for Advance
Ruling, GST Himachal Pradesh
Rohit Chauhan, Member
Neva Plantation Pvt. Ltd.

Vs.

ACST&E-cum-Proper Officer, Palampur

Appeal No. : 020/2019

February 11, 2020

Deposition : In favour of Applicant

AAAR-HP - Penalty - Section 129 of CGST Act, 2017 - E-way bill - Transpotation of goods for repair without the cover of proper documents (e way bill is one of them) - Penalty u/s 122(1) can not be imposed more than Rs. 10,000/-.

AAAR-HP - E-way bill - Section 122 of CGST Act, 2017 - E-way bill is required in cases other than supply also.

It appears that there is no dispute regarding quantity/quality of goods and further it has been clearly mentioned on the challan that the goods are not for sale only for repair. Since the transaction has no tax implications, the proper office while adjudicating the case has taken into consideration the invoice value of the nine month old purchase invoice for determining the tax and penalty in this case under section 129(1) of the Act. The method used for valuation of transaction is not just and proper as the disputed goods were old and were dispatched for repair.
[Para 20]

In the view of the above facts, the instant appeal is accepted and the order passed by Assistant Commissioner State Taxes & Excise-cum-

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Proper Officer, North Enforcement Zone Palampur dated 27-11-2018 is set aside. The tax and penalty deposited by the appellant u/s 129(1) may be refunded and a penalty of Rs. Ten Thousand only is imposed on the taxpayer under section 122(1) of the Act. [Para 22]

Sh. N.K. Thaman, Advocate for the appellant.

Shri Kishore Kumar, ACST&E-cum-Proper Officer for the Department.

:: ORDER ::

(Appeal under Section 107 of CGST Act, 2017 and HPGST Act, 2017 read with rule-108 of Himachal Pradesh Goods & Services Tax Rules, 2017)

1. At the outset, I would like to make it clear that the provisions of both the Himachal Pradesh Goods and Service Tax Act, 2017 and Central Goods & Service Act, 2017 (hereinafter referred to as HPGST and CGST Act respectively) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the HPGST Act would also mean a reference to the corresponding similar provisions under the CGST Act and vice versa.
2. This appeal has been filed against the order dated 27-11-2018 passed by the Asst. Commissioner State Taxes & Excise (ACST&E)-cum-Proper Officer, North Enforcement Zone, Palampur vide which an additional demand of 1,18,800/- was created against the appellant under sub-section (1) Section 129 of Goods and Service Tax Act, 2017.
3. The appellant is a private limited company and is engaged in the plantation business. The plants falling under Chapter 6 of the Customs Tariff are exempt from GST as per serial number 34 of Notification No. 02/2017-Central Tax (Rate) dated 28-6-2017. Similar notification has been issued under IGST Act and HPGST Act. As per Section 23 (1) (a) of CGST Act, 2017, any person engaged exclusively in the business of supplying goods that are wholly exempt from tax, is not required to be registered. However the appellant was not aware of the above legal provision and had taken GST Registration No. 02AABCN9078P1ZX and filling GST returns by showing exempted supplies.
4. The appellant had sent one machine named “Auto Clave” for repair to its supplier M/s. Pragati Laboratory Equipment, Ambala Cantt (Haryana) in Vehicle No. HP 37F3056 and had issued Delivery Challan No. 84 dated

29-10-2018. In this delivery challan, it was specifically mentioned that “not for Sale” and “Only for Repair.” Along with delivery challan, the appellant had also enclosed one certificate wherein the purpose of transportation of machine was mentioned as “.... Faulty Auto Clave machine, which is send on below address for repair. This machine is not for sale.....”. The appellant had also enclosed photocopy of purchase invoice No. 950 dated 12-1-2018 of above machine along with the above documents. The machine was purchased from the above firm i.e. M/s. Pragati Laboratory Equipment, Ambala Cantt (Haryana) having declared taxable value of Rs. 3,30,000/- with IGST @ 18% amounting to Rs. 59,400/-. The faulty Auto Clave machine was sent to its manufacturer/supplier for repair. It is pertinent to mention here that the above factual position is already evidenced from available records and is nowhere disputed by revenue at any stage.

5. The said machine was intercepted on 30-10-2018 at 6:20 AM at Ranital. The statement of driver of the truck was recorded in GST MOV-01 having Reference No. NEZ-03/30-10-18. Further, the order for physical verification/inspection was passed in GST MOV-02 having Reference No. NEZ-03/30-10-18 on the reasoning that “E-way bill was not tendered for auto clave machine being transported in inter-state movement for repairs of value worth Rs. 3,89,400/-”. Thus, the value of machine was taken by the officer from the copy of purchase invoice enclosed with the delivery challan by the appellant. The physical verification report was prepared in GST MOV-04 having Reference No NEZ-03-30-10-18 and machine was found to be as per description mentioned in the delivery challan and no discrepancy was found during physical verification. The self-certified copies of GST MOV-1, GST MOV-2 and GST MOV-04 are enclosed in this regard.

6. The above machine along with conveyance was detained due to non-availability of E-way bill and detention order in GST MOV-06 having Reference No. NEZ-03/30-10-18 was served. Further, notice under Section 129 (3) of CGST/HPGST Act, 2017 was issued in GST MOV-07 having Reference No. NEZ-03/30-10-18 giving options under Section 129 (1) ibid of payment of IGST of Rs. 59,400/- [18% on Rs. 3,30,000/-] with equal penalty of Rs. 59,400/- and to file reply to the notice. In both the documents i.e.: GST MOV-06 and GST MOV-07, the reason is mentioned that “E-way Bill not generated for Interstate movement of Auto Clave Machine being transported for repair”. The self-certified copies of GST MOV-6 and GST MOV-7 are enclosed in this regard.

7. The appellant furnished a bond in GST MOV-08 along with FDR No. 38044098038 for the amount equivalent to tax and penalty proposed. The machine along with conveyance was released on furnishing of above bond and FDR and release order in GST MOV-05 having Reference No. NEZ-03/30-10-2018 dated 1-11-2018. The self-certified copy of FDR and GST MOV-5 is enclosed in this regard.

8. The appellant filed detailed objections vide their letter dated 21-11-2018 to notice issued in GST MOV-07. In this letter, they submitted that since the appellant is engaged in the supply of exempted goods, they are not required to issue e-way bill as per Rule 138 (14) (E) of CGST Rules, 2017. They had not issued e-way bill for sending above machine for repair under this bonafide belief that they are not required to issue e-way bill being engaged in supply of exempted goods. They further submitted that activity to send goods for job work/repair does not attract GST as not covered under the definition of “supply” and as per the provision of Section 129 (1) of CGST Act, 2017, no tax and penalty is attracted in this case. They further submitted that as per Section 129 (6) and 130 (1) of CGST Act, 2017, no detention is sustainable in this case as there is no intent to evade GST. The non-issuance of e-way bill in such a situation is only a procedural lapse without any revenue implication or loss to the department. In view of these submissions, they requested to vacate GST MOV-07.

9. The adjudicating authority vides their letter No. NEZ/Palampur/595 dated 26-11-2018 directed the appellant to deposit payment of tax and penalty as proposed in the notice and produce proof thereof by 28-11-2018 positively, failing which the FDR pledged under bond will be forfeited as per the provisions of law. In this letter, it is mentioned that

- (a) E-way bill is required for movement of goods not only for reason “supply”, but also required to be generated for reasons other than supply (See Rule 138 (1) (ii).
- (b) Activity to send goods for job work or repairs does not come under definition of supply is not relevant in your case a notice was issued to you for not generating E-way bill for reasons other than supply. You may be engaged in supply of exempted goods which is not relevant in your case.
- (c) Your goods i.e. Auto Clave machine is not in e-way bill exempted list and attracts penalty under Section 129 (1) (a) of the Act.

10. The appellant vide their letter dated 17-11-2018 requested the adjudicating authority to pass a speaking and appealable order in GST MOV-09 under Section 129 (3) of CGST/HPGST Act, 2017 after considering the submissions already made vide their letter dated 20-11-2018.

11. The Ld. Adjudicating authority passed an order in GST MOV-09 on 27-11-2018. However, only preamble of the order was provided to the appellant. In this preamble, it is mentioned that “order enclosed”, but no order was enclosed with the preamble. Vide this order, IGST of Rs. 59,400/- and penalty of Rs. 59,400/- has been confirmed against the appellant. However, no opportunity of personal hearing was afforded to the appellant to explain their case as required u/s. 129 (4) of CGST Act, 2017. Further, detailed order considering the objections/submissions made by the appellant vide their reply dated 20-11-2018 and giving reason/ground for confirming demand and imposing penalty, was not passed or provided to the appellant against the principles of natural justice.

12. The summary of above order No. NEZ03/92A dated 27-11-2018 has been uploaded on common portal in FORM GST DRC-07 having Reference No. ZA021118000370G dated 27-11-2018. Further, the adjudicating authority has appropriated the amount of Rs. 1,18,000/- [IGST of Rs. 59400/- and penalty of Rs. 59400/-] from FDR No. 38044098038 and got deposited this amount in Electronic cash ledger on 30-11-2018 against Reference No. SBIN90027742. This amount was got debited against liability created vide above summary of order in Electronic Cash Ledger on 3-12-2018 against Reference No. DCO212180000639.

13. The appellant vide their letter dated 7-1-2019 requested the adjudicating authority for supplying operative portion of order FORM GST MOV-09 as per proforma prescribed in Circular No. 41/15/2018-GST dated 13-4-2018. In this letter, the appellant has mentioned that Para 8 of operative part relating to “Speaking Order” and para 9 of operative part relating to “Recalculation Part” are crucial part of order and without these parts, it is not possible to know the reason for rejection of objections raised by them in their reply. The appellant filed a reminder of above letter on 29-1-2019. However, till date, operative portion of order has not been supplied to the appellant. Feeling aggrieved with the impugned order, the appellant is filing the present appeal on the following grounds:-

14. GROUNDS OF APPEAL:

- 1) That the impugned order is against law & contrary to facts on record, hence erroneous & misconceived.
- 2) That the impugned order has been passed in clear violation of principles of natural justice. Firstly, no opportunity of personal hearing was afforded to the appellant as required in Section 129 (4) of CGST/HPGST Act, 2017 as made applicable to inter-state transactions vide Section 20 of IGST Act, 2017 before passing order under Section 129 (3) *ibid*. This sub-section provides that -

“No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.”

- 3) Without prejudice to above, even on merits, the impugned order is not sustainable. The appellant is filling appeal based on objection raised in letter dated 26-11-2018 of the adjudicating authority due to non-receipt of operative part of GST MOV-09. The appellant reserves their right to file additional submissions on receipt of operative portion of the order.
- 4) The Ld. Adjudicating authority has failed to consider that there is no “applicable tax” under Section 129 (1) of CGST Act, 2017 as made applicable to inter-state supply as per Section 20 of IGST Act, 2017 since the activity to send goods for repair does not attract GST as not covered under the definition of “supply”, hence the confirmation of demand of GST and imposition of equal penalty as per the provisions of Section 129 (1) (a) of CGST/HPGST Act, 2017 is not sustainable.
- 4.1) The Ld. Adjudicating authority while passing order u/s 129(3) of CGST/HPGST Act, 2017 has wrongly confirmed IGST and imposed equal penalty as per Section 129 (1)(a) *ibid*. It is an accepted fact that the appellant had sent faulty Auto clove machine for repair as per details mentioned in the statement of facts above. The charging Section 5 (1) of IGST Act, 2017 [applicable in case of inter-state transactions] provides that IGST is levied on all inter-state supply of goods or services or both. Section 7 of CGST/HPGST Act, 2017 read with Section 20 of IGST Act, 2017 defines the scope of supply. This section provides that:

Scope of supply.- (1) For the purposes of this Act, the expression “supply” includes

- (a) all forms of supply of goods or services or both such as sale,

transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

- (b) import of services for a consideration whether or not in the course or furtherance of business; “and”
 - (c) the activities specified in Schedule-I, made or agreed to be made without a consideration.”
 - (d) The activities to be treated as supply of goods or supply of services as referred to in Schedule II
- (2) Notwithstanding anything contained in sub-section (1),
- (a) activities or transactions specified in Schedule-III, or
 - (b) such activities or transactions undertaken by the Central Government, the State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.
- (3) Subject to the provisions of “sub-sections (1), (1A) and (2)” the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as-
- (a) a supply of goods and not as a supply of services; or
 - (b) a supply of services and not as a supply of goods.

As per above section, supply of goods made for consideration are covered under GST Further, supplies specified in Schedule-I made without consideration are also covered under GST.

Schedule-1 of CGST Act, 2017 provides that:

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods-

- (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a “person” from a related person or from any of his other establishments outside India, in the course or furtherance of business.

The machinery sent for repair is not covered under Schedule-1 above. Further, no consideration is involved in sending faulty auto clove machine for repair to its manufacturer. Thus, from the above provisions, it is concluded that machinery sent for repair is not covered under the definition of supply and does not attract GST.

- 4.2) That, Section 129 (1) *ibid* [discussed in detail in the succeeding para], provides that detention is to be released on payment of applicable tax and penalty equal to one hundred percent of tax payable on such goods. In the present case, when GST is not attracted in the transaction as not covered under the definition of “supply”, there is no applicable GST in this case. Further, there can not be penalty when there is no GST payable as required in Section 129 *ibid*. Thus, the GST demanded and penalty equal to GST imposed in the impugned order is not correct and the impugned order demanding GST and imposing penalty merits to be set aside.

There can be a case for levy of GST, had the allegation of revenue was that the machine was infact cleared clandestinely to evade payment of GST in the guise of sending the same on delivery challan for repair. However, it is nowhere in dispute, rather an accepted fact that the auto clove machine was sent for repair to its original supplier/manufacturer. It is rather a fact on record that the auto clove machine involved in the present case had already suffered GST as was earlier purchased on due payment of IGST of Rs. 59,400/ vide invoice No. 950 dated 12-1-2018 by the appellant and no ITC is claimed of this IGST as the

appellant is engaged in the supply of exempted plants. In view of above, the impugned order is not sustainable and the same merits to be set aside.

- 5) The Id. Adjudicating authority has failed to consider that detention under Section 129 of CGST/HPGST Act, 2017 read with Section 20 of IGST Act, 2017 is not sustainable as pre-requisite of intent to evade duty is missing in this case.
- 5.1) Chapter XIX of CGST/HPGST Act, 2017, containing Section 122 to 138, deals with offences and penalties. These sections have been made applicable to inter-state supply as per Section 20 of IGST Act, 2017. Among the said provisions, Section 122 to 128 *ibid* deals with imposition of penalties. Section 129 *ibid* deals with detention, seizure and release of goods and conveyances in transit. Section 130 and 131 *ibid* deals with confiscation of goods or conveyances and levy of penalty. Section 132 to 138 *ibid* deals with various offences under the Act. Section 129 dealing with detention, seizure and release of goods and conveyance in transit provides that:
 - (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made there under, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released, -
 - (a) on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;
 - (b) on payment of the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty; and

- (c) Upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed : Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.
- (2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.
- (3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).
- (4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.
- (5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.
- (6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within “fourteen days” of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

Section 130:

- (1) Notwithstanding anything contained in this Act, if any person -
 - (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made there under with intent to evade payment of tax; or
 - (ii) does not account for any goods on which he is liable to pay tax under this Act; or
 - (iii) supplies any goods liable to tax under this Act without having

applied for registration; or

- (iv) contravenes any of the provisions of this Act or the rules made there under with intent to evade payment of tax; or
- (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provision of this Act or the rules made there under unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

- (2) Whenever confiscation of any goods or conveyance is authorized by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

- (3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.
- (4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.
- (5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

- (6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.
- (7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government”.

A combined reading of Section 129 (6) and 130 (1) *ibid* provides that detention of goods is contemplated under Section 129 *ibid* only when it is suspected that goods are liable to confiscation under Section 130 *ibid*. Section 130 provides for confiscation of goods only when a taxable supply is made otherwise than in accordance with the provisions contained in statutes and the Rules made there under with the intent to evade payment of tax.

- 5.2) That, the provision relating to issuance of e-way bill are contained in Rule 138 of CGST Rules, 2017. In the present case, there is only allegation that the appellant has not issued e-way bill for sending machinery for repair in inter-state movement. Since no GST is involved in this transaction as discussed in the preceding defense, there is no question of any intent to evade GST. When there is no intention to evade payment of GST, no confiscation is warranted under section 130 *ibid*, consequently, no detention under Section 129 *ibid* is sustainable. The non-issuance of e-way bill in such a situation is only a procedural lapse without any revenue implication or loss to the department, which merits to be condoned considering it a case of bonafide mistake on part of appellant as engaged in supply of exempted goods. Thus, the impugned order wrongly demanding GST and imposing equal penalty is not sustainable and merits to be set aside.

The Id. Adjudicating authority has failed to consider that the appellant was under bonafide belief that e-way bill is not required as they are engaged in the supply of exempted goods i.e. plants and as per Rule 138 (14) (E) of CGST Rules, 2017 they are not required to issue e-way bill. As discussed in statement of facts, the appellant is

engaged in plantation business. The plants falling in Chapter 6 of the Customs Tariff are exempt from GST as per serial number 34 of Notification No. 02/2017-Central Tax (Rate) dated 28-6-2017. Similar notification has been issued under IGST Act and HPGST Act. As per Section 23 (1) (a) of CGST/HPGST Act, 2017, any person engaged exclusively in the business of supplying goods that are wholly exempt from tax, is not required to be registered. However, the appellant was not aware of above legal provision and had taken GST Registration No. 02AABCN9078P1ZX and filing returns by showing exempted supplies.

Further, e-way bill is governed vide Section 68 of CGST/HPGST Act, 2017 [as made applicable to inter-state transactions vide Section 20 of IGST Act, 2017] read with Rule 138 of CGST/HPGST Act, 2017 [as made applicable to inter-state transactions vide Notification No. 4/2017-Integrated Tax dated 28-6-2017] As per Section Rule 138 (14) (e) of CGST/HPGST Rules, 2017, e-way bill is not required for person dealing in goods specified in the Schedule appended to this notification as mentioned in preceding para, the appellant is not required to issue e-way bill as per above clause of Section 138 (14) *ibid*. Since the appellant is engaged in supply of only exempted goods under above notification, they were under the impression that they are not required to issue e-way bill in any case. This is the reason that they had not issued e-way bill for the machinery sent for repair. This lapse merits to be condoned considering the same as of procedural nature when no revenue is involved in the transaction as discussed in the succeeding paras. Thus, the impugned order passed without considering the above bonafide belief & un-intentional mistake on part of appellant is not sustainable and the same merits to be set aside.

- 7) The Ld. Adjudicating authority vide their letter No. NEZ/Palampur/595 dated 26-11-2018 has taken the plea that e-way bill is required of movement of goods not only for reason “supply”, but also required to be generated for reasons other than supply (See Rules 138 (1)(ii)) Further, it is mentioned in above letter that activity to send goods for job work or repairs does not come under definition of supply is not relevant as notice was issued for not generating E-way bill for reasons other than supply. It is further mentioned in this letter that the appellant may be engaged in supply of exempted goods which is not relevant in the case. Auto Clave machine is not in e-way bill exempted list and

attracts penalty u/s 129 (1) (a) of the Act.

In this regard, it is submitted that the appellant has never denied that e-way bill is required in case of other than supply. But their submission is that there is no applicable tax as required in Section 129 (1) *ibid*, in view of fact that sending capital goods for repair is not a supply. Since there is no applicable tax, no demand of GST can be made in the present case and no penalty equal to GST can be imposed. Further, no detention is contemplated where there is not intent to evade duty as per the provisions of Section 129 (6) and 130 (1) *ibid*. Further, the appellant had given reference of no requirement of e-way bill since they are engaged in exempted supply and it is to show their bonafide belief in non-issuance of e-way bill along with disputed transaction. Thus, the grounds taken in above letter are against the legal provision of the issue as discussed in the preceding paras. The impugned order passed without considering the legal provisions is not sustainable and the same merits to be set aside.

The above grounds are independent and without prejudice to one another. The appellant seeks leave to add or withdraw any of above grounds as & when consider necessary.

Relief Claim:

In view of above, it is respectfully prayed that the Ld. Additional Commissioner (Appeals) may be pleased to set aside the impugned order confirming IGST demand of Rs. 59,400/- and imposing equal penalty of Rs. 59,400/- on the appellant and allow the present appeal and refund the same amount deposited by the appellant. Any other order deemed just & proper may be passed.

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15. POINT WISE REPLY FROM RESPONDENT:

Pt. No. 1: That the impugned order passed under the CGST/HPGST Act, 2017 is accordance with the Act/Rules.

Pt. No. 2: Notice u/s 129 (3) of the HPGST Act, 2017 issued to the tax payer in form GST-MOV-07 to show cause within 7 days from the receipt of notice, but the tax payer failed to do so within stipulated time period. It is clear from interpretation of provision of the Act that notice issued GST-MOV-07 is sustainable and dealer has been afforded enough opportunity

of being heard.

Pt. No. 3: Order of demand of tax and penalty in form MOV-09 issued to the tax payer on 27-1-2018 and duly received by the tax payer on same date i.e. 27-11-2018.

Pt. No. 4: In this para, it is submitted that E-way bill is required for movement of goods not only for the reason “supply”, but also required to be generated for the reasons other than supply as stated in rule 138 (1) (ii) of the E-way bill rules.

Pt. No. 4.1: In this para, it is submitted that the tax/penalty under section 129 (3) is imposed as per Act ibid and rules framed there under.

Pt. No. 4.2: In this para, it is submitted that activity to send goods for job work or repair work is considered as other than supply (Read rule 138 (i) (ii), it requires to generate E-way Bill which the dealer failed and so section 129 (1) (A) attracted and thus tax and penalty was imposed as per HPGST Act, 2017.

Pt. No. 5: As the amount of commodities exceeds the value of 50,000/- rupees, the dealer is bound to generate E-way bill.

Pt. No. 5.1: Goods i.e. Auto claves machine is not in E-way bill exempted list and attracts penalty under section 129 (1) (A) of the Act. Hence para denied.

Pt. No. 5.2: Para denied, as the generation of E-way bill exempted list and attracts penalty under section 129 (1) (A) of the Act. Hence para denied.

Pt. No. 6: It is submitted that E-way bill is required for movement of goods not only for the reason “supply”, but also required to be generated for reason other than supply as stated in Rule 138 (i) (ii) of E-way bill rules.

Pt. No. 7: Rule 138 of the CGST/HPGST Rules, 2017 states that every registered person who causes movement of goods (which may not necessarily be on account of supply) of the said consignment value is required to furnish above mentioned information in part A of the E-way bill and Transporter will give details in Part B. A registered person sending Auto claves machine for repair or job work, interstate supply of goods or other than supply of goods has not covered under E-way bill exempted list and the consignment of Auto claves machine attracts penalty under section 129 (1) of the Act.

That rule 138 of CGST/HPGST Rules, 2017 provides for the E-way bill mechanism and in this context it is important note that “information is to

be furnished prior to the commencement of movement of goods: and is to be issued whether the movement is in relation to a supply or for reasons other than supply. That the order passed by the proper officer is under the provision of law of CGST and SGST Rule, 2017.

XXXXXXXXXX

16. After hearing both the parties in detail it appears that the disputed goods were sent by the petitioner for repair to the supplier on challan with a photocopy of invoice received at the time of purchase. The Ld. Proper Officer intercepted the conveyance carrying the goods and it came to the notice of the proper officer that the e-way bill has not been generated for the movement of goods. Hence, there by a tax/penalty has been imposed under section 129 of HPGST/CGST Act, 2019 for contravention of Rule 138 a demand of (i.e. total Rs 1,18,800/-) has been created under IGST Act against the taxpayer.

17. The ld. counsel submitted that the petitioner is engaged exclusively in the business of supplying goods that are wholly exempt from tax under GST. He further submitted that the ld. Adjudicating authority has failed to consider that the appellant was under bonafide belief that e-way bill is not required as they are engaged in the supply of exempted goods i.e. plants as per Rule 138 (14) (E) of CGST/HPGST Rules, 2017. They were under the impression that they are not required to issue e-way bill in any case. This is the reason that they had not issued e-way bill for the machinery sent for repair. He also submitted that their transaction doesn't satisfy the definition of "supply" under section 7 of HPGST/CGST Act, 2017 as the goods were not meant for sale.

18. The ld. respondent in response argued that as per Rule 138(1) of CGST/HPGST Rules, 2017, every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees in relation to a supply; or for reasons other than supply; or due to inward supply from an unregistered person, is required to generate e-way bill before the commencement of such movement.

19. The petitioner later accepted the fact that e way bill is required in cases other than supply and pleaded that since there is no tax implication in this case and that they were sending capital goods for repair only, thus no penalty can be imposed under section 129(1).

20. I have heard both the parties and have perused the record of the case. It appears that there is no dispute regarding quantity/quality of goods and

further it has been clearly mentioned on the challan that the goods are not for sale only for repair. Since the transaction has no tax implications, the proper office while adjudicating the case has taken into consideration the invoice value of the nine month old purchase invoice for determining the tax and penalty in this case under section 129(1) of the Act. The method used for valuation of transaction is not just and proper as the disputed goods were old and were dispatched for repair.

21. As there is no doubt that the taxpayer has violated the provisions of the CGST/HPGST Act, 2017, so is liable to pay penalty. The tax payer has transported goods without the cover of proper documents (e-way bill is one of them). In this regard, attention is invited toward section 122 of the CGST/HPGST Act that can come into play in the instant case which provides:

122. (1) Where a taxable person who-

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

22. In the view of the above facts, the instant appeal is accepted and the order passed by Assistant Commissioner State Taxes & Excise-cum-Proper Officer, North Enforcement Zone Palampur dated 27-11-2018 is set aside. The tax and penalty deposited by the appellant under section 129(1) may be refunded and a penalty of Rs. Ten Thousand only (Rs 10,000/-) is imposed on the taxpayer under section 122(1) of the Act. The judgment in this case was reserved on 4-1-2020 which is released today.

Inform the parties accordingly.



2020) **Jian International Vs. Commissioner (Del)** 171

(2020) 65 TLD 171

In the High Court of Delhi
Hon'ble Manmohan & Sanjeev Narula, JJ.

Jian International

Vs.

Commissioner of Delhi Goods And Services Tax

W.P. (C) No. : 4205/2020

July 22, 2020

Deposition : In favour of Petitioner

Refund - Section 54 of the Delhi Goods and Services Tax Act, 2017 - Zero rated supply - Refund not made within stipulated period - The High Court directed the respondent to pay to the petitioner the refund along with interest.

Writ petition disposed of

Mr. Rajesh Jain, Advocate with Mr. Virag Tiwari and Mr. Ramashish, Advocates for the petitioner.

Mr. Anuj Aggarwal, Addl. Standing Counsel for GNCTD.

:: JUDGMENT (Oral) ::

The Judgment of the Court was delivered by **MANMOHAN, J :**
CM APPL. 15103/2020

Allowed, subject to just exceptions.

W.P. (C) 4205/2020

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking a direction to respondent to grant refund of Rs.9,12,893/- claimed under Section 54 of the Delhi Goods and Services Tax Act, 2017 (hereinafter referred to as 'DGST Act') for the month of August, 2019 as well as the grant of interest in accordance with Section 56 of DGST/CGST Act.
3. Learned counsel for petitioner states that in accordance with Section 54(6) of DGST Act read with Rule 91(2) of Delhi Goods and Services Tax Rules, 2017 (for short "DGST Rules") proper officer is required to refund at least 90% per cent of the refund claimed on account of zero-rated supply of goods or services or both made by registered persons within a period of seven days from the date of acknowledgment issued under sub-rule (1)

or sub-rule (2) of Rule 90 of DGST Rules. He states that despite the period of fifteen days from the date of filing of the refund application having expired on 19th November, 2019, the respondent has till date neither pointed out any deficiency/discrepancy in FORM GST RFD-03 nor it has issued any acknowledgement in FORM GST RFD-02.

4. Learned counsel for petitioner further states that even for the refunds for the months of September and November, 2017, petitioner had to file W.P.(C) No. 6337/2019 and it was only thereafter the Department had refunded the tax along with partial interest.

5. On the last two dates of hearing, Mr. Anuj Aggarwal, learned counsel for respondent had sought time to obtain instructions. He admits that there has been laxity on the part of the respondent in processing the petitioner's application. He, however, states that a formal deficiency memo will have to be issued as certain documents though annexed with the writ petition had not been uploaded by the petitioner along with its refund application.

6. Having heard learned counsel for the parties, this Court finds that Rules 90 and 91 of CGST/DGST Rules provide a complete code with regard to acknowledgement, scrutiny and grant of refund. The said Rules also provide a strict time line for carrying out the aforesaid activities. For instance, Rules 90(2) and (3) of the DGST Rules states that within fifteen days from the date of filing of the refund application, the respondent has to either point out discrepancy/deficiency in FORM GST RFD-03 or acknowledge the refund application in FORM GST RFD-02. In the event deficiencies are noted and communicated to the applicant, then the applicant would have to file a fresh refund application after rectifying the deficiencies. The relevant portion of Rule 90 of CGST/DGST Rules is reproduced hereinbelow:-

“90. Acknowledgement.-

(1) *Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in in sub-section (7) of section 54 shall be counted from such date of filing.*

(2) *The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize*

the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4) of rule 89, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(3) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.”

7. In the event of default or inaction to carry out the said activities within the stipulated period, consequences like payment of interest are stipulated in Section 56 of CGST/DGST Act.

8. Admittedly, till date the petitioner's refund application dated 4th November, 2019 has not been processed. As neither any acknowledgment in FORM GST RFD-02 has been issued nor any deficiency memo has been issued in RFD-03 within time line of fifteen days, the refund application would be presumed to be complete in all respects in accordance with sub-rule (2), (3) and (4) of Rule 89 of CGST/DGST Rules.

9. To allow the respondent to issue a deficiency memo today would amount to enabling the Respondent to process the refund application beyond the statutory timelines as provided under Rule 90 of the CGST Rules, referred above. This could then also be construed as rejection of the petitioner's initial application for refund as the petitioner would thereafter have to file a fresh refund application after rectifying the alleged deficiencies. This would not only delay the petitioner's right to seek refund, but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules.

10. Moreover, the respondent's prayer to raise a deficiency memo is a hyper-technical plea as admittedly, all the relevant documents have been annexed with the present writ petition and the respondent is satisfied about their authenticity.

11. Consequently, this Court is of the view that the respondent has lost the right to point out any deficiency, in the petitioner's refund application, at this belated stage.

12. Accordingly, this Court directs the respondent to pay to the petitioner the refund along with interest in accordance with law within two weeks.

13. With the aforesaid directions, present writ petition stands disposed of.

14. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

□

(2020) 65 TLD 174

In the High Court of Gujarat
Hon'ble J.B. Pardiwala & Bhargav D. Karia, JJ.

VKC Footsteps India Pvt. Ltd.

Vs.

Union of India & 2 other(s)

R/Special Civil Application No. 2792 of 2019, 14980 of 2018, 12483 of 2019, 13120 of 2019, 14148 of 2019, 14155 of 2018, 16269 of 2019, Civil Application (for Direction) No. 1 of 2019 in R/Special Civil Application No. 16269 of 2019, 16276 of 2019 with 653 of 2019

July 24, 2020

Deposition : In favour of Petitioner

Refund - Explanation (a) to Rule 89(5) which denies the refund of “unutilised input tax” paid on “input services” as part of “input tax credit” accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act, 2017.

Writ petition allowed

The petitioner has prayed for the following reliefs:

“20. The Petitioners, therefore, prays that this Hon'ble Court may be pleased to:

(a) hold that the amended Rule 8 of the CGST Rules is ultra vires Section 54(5) inasmuch as Section 54(3) provides for refund of ‘any unutilized input tax credit accumulated on account of inverted duty structure thereby covering credit of both ‘inputs’ and ‘input services’;

(b) hold that the amended Rule 89 of the CGST Rules is violative of Article 14 of Constitution of India inasmuch as it treats dealers with accumulated credit on inputs and dealers with accumulated credit on input services differently;

(c) hold that Section 164(3) is unconstitutional inasmuch as it suffers from the vice of excessive delegation;

(d) hold that the amendment of Rule 89 cannot be given retrospective application;

(e) issue a Writ of Certiorari or any other appropriate Writ, Order or direction, in the nature of Writ, quashing the refund withholding orders dated 14-6-2018, and letter dated 11-6-2018 issued by Respondent No. 3 enclosed at **Exhibit-1 and Exhibit-2** respectively;

(f) direct Respondents herein, pending the present petition, not to initiate any coercive action or recovery proceedings;”

23. *From the conjoint reading of the provisions of Act and Rules, it appears that by prescribing the formula in Sub-rule 5 of Rule 89 of the CGGST Rules, 2017 to exclude refund of tax paid on “input service” as part of the refund of unutilised input tax credit is contrary to the provisions of Sub-section 3 of Section 54 of the CGST Act, 2017 which provides for claim of refund of “any unutilised input tax credit”. The word “Input tax credit” is defined in Section 2(63) means the credit of input tax. The word “input tax” is defined in Section 2(62), whereas the word “input” is defined in Section 2(59) means any goods other than capital goods and “input service” as per Section 2(60) means any service used or intended to be used by a supplier. Whereas “input tax” as defined in section 2(62) means the tax charged on any supply of goods or services or both made to any registered person. Thus “input” and “input service” are both part of the “input tax” and “input tax credit”. Therefore, as per provision of sub-section 3 of Section 54 of the CGST Act, 2017, the legislature has provided that registered person may claim refund of “any unutilised input tax”, therefore, by way of Rule 89(5) of the CGST Rules, 2017, such claim of the refund cannot be restricted only to “input” excluding the “input services” from the purview of “Input tax credit”. Moreover, clause (ii) of proviso to Sub-section 3 of Section 54 also refers to both supply of goods or services and not only supply of goods as per amended Rule 89(5) of the CGST, Rules 2017.*

24. *In view of the above analysis of the provisions of the Act and Rules keeping in mind scheme and object of the CGST Act, the intent of the Government by framing the Rule restricting the statutory provision cannot be the intent of law as interpreted in the Circular No.79/53/2018-GST dated 31-12-2018 to deny the registered person refund of tax paid on “input services” as part of refund of unutilised input tax credit.*

25. *We are of the opinion that Explanation (a) to Rule 89(5) which denies the refund of “unutilised input tax” paid on “input services” as part of “input tax credit” accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act, 2017.*

26. *In view of the above, Explanation (a) to the Rule 89(5) is read down to the extent that Explanation (a) which defines “Net Input Tax Credit” means “input tax credit” only. The said explanation (a) of Rule 89(5) of the CGST Rules is held to be contrary to the provisions of Section 54(3) of the CGST Act. In fact the Net ITC should mean “input tax credit” availed on “inputs” and “input services” as defined under the Act.*

27. *The respondents are therefore, directed to allow the claim of the refund made by the petitioners considering the unutilised input tax credit of “input services” as part of the “net input tax credit”(Net ITC) for the purpose of calculation of the refund of the claim as per Rule 89(5) of the CGST Rules, 2017 for claiming refund under Sub-section 3 of Section 54 CGST Act, 2017.*

28. *In the result, for the forgoing reasons, the petitions are accordingly allowed. Rule is made absolute to the aforesaid extent. No order as to costs.*

:: CAV JUDGMENT ::

The Judgment of the Court was delivered by **BHARGAV D. KARIA, J. :**

:: FURTHER ORDER ::

After the judgment is pronounced, Mr. Nirzar Desai learned Standing Counsel for the respondent made a request to stay the operation, implementation and execution of the judgment.

Having regard to what has been stated in the judgment and more, particularly, when Explanation(a) to Rule 89(5) of the CGST Rules, 2017 is held to be ultra vires the provisions of sub-section (3) of section 54 of the CGST Act, 2017, request of the learned advocate is rejected.

**[Full text of the judgment not produced here.
please visit : www.dineshgangrade.com]**



टैक्स लॉ डिजीजन्स की नवीन वेबसाइट प्रारम्भ



श्री राघवेंद्र कुमार सिंह जी आयुक्त राज्य कर मध्य प्रदेश को नवीन वेबसाइट के बारे में जानकारी प्रदान करते हुए वरिष्ठ कर सलाहकार श्री आर.एस. गोयल, सदस्य संपादक मण्डल टी.एल.डी और संपादक श्री नीलेश गंगराड़े। आयुक्त महोदय द्वारा शुभकामनाएं प्रेषित करते हुए सराहना की गयी और बहुमूल्य सुझाव भी प्रेषित किये। इस अवसर पर उपयुक्त श्री अनुराग जी जैन द्वारा भी वेबसाइट को बेहतर बनाने हेतु सुझाव दिए. आपके बहुमूल्य सुझावों को जल्द ही वेबसाइट में समाहित कर लिया जावेगा।

जैसे ही विश्वव्यापी विभीषिका ने मार्च माह से अपने पैर पसारने शुरू किये, सब कुछ थम सा गया. जो जहाँ था वह वही रह गया, सब घरों में कैद हो गए. ऐसे समय में टी.एल.डी ने अपने पाठकों तक पहुंचने के लिए और उनको अपडेट रखने के लिए वेबसाइट निर्माण का कार्य तेजी से शुरू किया और अंततः लॉक डाउन के अंत तक जी.एस.टी. वेबसाइट पूर्ण रूप से तैयार हो गयी.

शुरुवात से ही जी.एस.टी में अधिसूचनाएं और परिपत्र बड़ी जल्दी-जल्दी जारी हो रहे हैं ऐसे में यदि साप्ताहिक अंक भी प्रकाशित किया जावें तब भी पाठकों को अद्यतन अपडेट नहीं किया सकता। इसलिए वेबसाइट के माध्यम से अब डेली अपडेट किया जा सकता है और इसके साथ ही प्रकाशन के 6 नवीन अंकों की पूरी पीडीऍफ़ फाइल भी पाठक वेबसाइट के माध्यम से देख सकते हैं और प्रिंट भी ले सकते हैं. इसके साथ ही टी.एल.डी के बैंक वॉल्यूम्स भी अपलोड किये गए हैं इसका यह फायदा है कि जो नए सदस्य हैं जिनके पास पूरे वॉल्यूम्स नहीं हैं अब वे भी बैंक वॉल्यूम्स को देख कर आवश्यकता अनुसार प्रिंट भी ले सकते हैं और सर्व भी कर सकते हैं.

अभी इस साइट को वर्ष 2017 से 2020 तक अपडेट किया जा चुका है. अगले चरण में पाठकों से प्राप्त सुझावों को और वर्ष 2016, 2015 आदि इस तरह पीछे के क्रम में अपडेट किया जावेगा।

उपरोक्त मीटिंग में आयुक्त महोदय के साथ श्री अनुराग जैन सा., श्री आर. एस. गोयल, श्री मनीष अग्रवाल और श्री नीलेश गंगराड़े उपस्थित थे.

टैक्स बार एंड प्रैक्टिशनर्स एसोसिएशन एवं एमपीटीएलबीए द्वारा असिस्टेंट कमिशनर स्टेट जीएसटी श्री पी.सी. मार्को जी को भावभीनी विदाई



टैक्स बार एंड प्रैक्टिशनर्स एसोसिएशन एवं एमपीटीएलबीए के प्रतिनिधि के रूप में असिस्टेंट कमिशनर स्टेट जीएसटी श्री पी. सी. मार्को जी को भावभीनी विदाई दी। आपको नई पदस्थापना की ढेर सारी शुभकामनाएं।

इस अवसर पर प्रभार ग्रहण करने वाले श्री गोपीनाथ शर्मा जी का स्वागत किया गया। इस अवसर पर श्री प्रहलाद सिंह दांगी जी, प्रेसीडेंट श्री संजय नामदेव जी एवं भारत भूषण द्विवेदी जी सहित डिपार्टमेंट के सभी लोग उपस्थित रहे।

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