



BEFORE THE AUTHORITY FOR ADVANCE RULINGS
for the State of Andhra Pradesh (Goods and Service Tax)
(5th Floor, O/o Chief Commissioner of Commercial Taxes, D.No:5-56, Block-B, R.K
Spring Valley Apartments, Edupugallu, Vijayawada-521151.)

Present:

Sri. J.V.M Sarma (Member)

Sri.Amaresh Kumar (Member)

The 20th day of August, 2018

Ruling No. AAR/AP/ 09 (GST)/2018
In
Application No.AAR/14 (GST)/2018

| | | |
|---|--|--|
| 1 | Applicant | M/s J ABDUL RAWOOF KHAN & BROTHERS (GSTIN:37AABFJ4031B1Z0) # 10-54, Peta, Masoom Basha Darga Street, Kurnool, A.P |
| 2 | Jurisdictional Officer | Assistant Commissioner(State Tax), Kurnool II Circle, |
| 3 | Present for the Applicant | Sri. J. Rasool Khan (Authorized Representative) |
| 4 | Present for the Jurisdictional Officer | Remarks Received |
| 5 | Date of Personal hearing | 19 th July 2018 |

Note: Under Section 100 of the APGST Act'2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section 99 of APGST Act'2017, within a period of 30 days from the date of service of this order.

M/s J Abdul Rawoof Khan & Brothers, (hereinafter also referred as applicant), having GSTIN: 37AABFJ4031B1Z0 are engaged in manufacturing of Biris, for that the necessary raw material i.e. Biri leaves and Tobacco powder mostly purchases from both the registered and unregistered dealers within and out side the State of Andhra Pradesh (which is nothing but an Inward supply) and manufacturing the same into Biris. The resultant Biris are sold in within the State of Andhra Pradesh, at Kurnool district only.

2. The applicant has filed an application in Form ARA-01, for seeking advance ruling on certain issues through common portal (i.e. www.gst.gov.in) after making the required payment of fee of Rs.10,000/- (Rs.5000/-). Vide CPIN No. 18053700152860, Dated: 31.05.2018 towards SGST Fee, and (Rs.5000/-) vide CPIN No: 18073700146803, Dated: 19.07.2018 towards CGST Fee.

On verification of basic information of the applicant available on record, it is observed that the applicant falls under State jurisdiction, i.e Kurnool II Circle, of Kurnool Division (as per the bifurcation lists of tax payers between the Centre and State in the prescribed manner). Accordingly, the application has been forwarded to the jurisdictional officers and also a copy marked to the Central Tax authorities to offer their remarks as per the Sec. 98(1) of CGST / APGST Act'2017, and requested for the information.

In response to this communication, the concerned jurisdictional officer, offered their remarks, and stated that there are no proceedings pending relating to the applicant, and no proceedings are passed on the issue, for which the advance ruling sought by the applicant.

A personal hearing is called for on 19th July 2018, to hear from the applicant. Sri.J. Rasool Khan, an authorized representative has attended on behalf of the applicant and submitted the facts of case as under:

The applicant is purchasing Biri leaves and tobacco powder, mostly from the registered dealers of within an outside the state of Andhra Pradesh, and manufacturing the same in to Biris. The resultant Biris are sold within the state of Andhra Pradesh Only.

Prior to introduction of APGST Act, 2017, the applicant is registered under the Central Excise Act, and used to pay the duties and taxes thereon regularly. Further, the turnovers of the applicant during the following financial accounting years are as under;

2015-16 : Rs. 6,01,250
2016-17 : Rs. 5,52,500
April 2017 to June 2017 : Rs.1,95,000

The authorized representative further submitted that, since 1st July 2017 onwards, the applicant has stopped his business temporarily, due to un-awareness of the liability under GST.

It is also submitted by the authorized representative that the applicant is aware of the provisions of Reverse Charge, and they are not effecting any purchases from un-registered dealers/agriculturists.

Question for clarification:

The applicant requested to clarify the following;

(1) He is manufacturer of Biris and his annual business turnover is less than Rs.20 lakhs. He does not have any inter-state outward taxable supply. He requested to clarify whether he is liable for registration under Sec.22 of CGST, SGST Acts 2017?

Facts of the case:

The applicant is purchasing Biri leaves and tobacco powder, mostly from the registered dealers of within an outside the state of Andhra Pradesh, and manufacturing the same in to Biris. The resultant Biris are sold within the state of Andhra Pradesh Only.

The aggregate turnover of the applicant from the past (3) three years is less than Rs.20 lakhs.

At the time of hearing, the applicants submitted that he is aware about the liabilities arising on Reverse Charge, if he purchases of Beedi leaves or Tobacco powder from un-registered dealers and he is also aware about compulsory registration if supplies made to outside the State of Andhra Pradesh.

Statutory provisions:

The provisions of Sec. 22 of Registration under APGST Act, 2017 reads as under;

“22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.”



With regard to **threshold limit of turnover**, Sec.22 (1) of the APGST Act 2017, reads as under:

Section.22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, **if his aggregate turnover in a financial year exceeds twenty lakh rupees:**

Since the applicant reported that his turnovers from the past (3) years are below Rs.20 lakhs, he may continue the GSTIN registration or may cancel the registration as per the provisions of Sec.29 of APGST Act 2017, which reads as under:


"29. (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—


(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of;"

In the light of the facts submitted by the applicant, and legal position, the ruling is given as under:

RULING

The Registration under Sec.22 of APGST Act 2017/CGST Act 2017 is not mandatory for applicant, for the stated facts on even date as per the existing provisions of law.


Sd/- (J.V.M SARMA)
Joint Commissioner (State Tax),
Authority for Advance Ruling,
Andhra Pradesh.


Sd/-(AMARESH KUMAR)
Joint Commissioner (Central Tax),
Authority for Advance Ruling,
Andhra Pradesh.