

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH

Goods and Service Tax()

O/o THE COMMISSIONER, COMMERCIAL TAX,

MOTI BUNGALOW,

MAHATMA GANDHI MARG, INDORE (M.P.) - 452007

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PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING

U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017

Members Present

1. **Rajiv Agrawal**
Additional Commissioner ,

Office of the Commissioner,CGST and Central Excise, Indore

2. **Manoj Kumar Choubey**
Joint Commissioner ,

Office of the Joint Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AAFFA2103F1ZD
Name and address of the applicant	ASHOK KUMAR PATEL 1, Near purani Tehsil, Jawahar Ward, Bina, District – Sagar, 470113, Madhya Pradesh
Date of Application	
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) applicability of a notification issued under the provision of this Act; i.e. Notification FA3/-08/2018/1/(V)(43) dated 24.04.18 issued under MPGST ACT /Rule
Date of Personal hearing	29-06-2018
Present on behalf of applicant	Shree R. Hurkat, Advocate
Case Number	10/2018
Order dated	25.07.18
Order No.	07/2018

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act 2017 and Madhya Pradesh Goods and Services Tax Act,2017)

1. BRIEF FACTS OF THE CASE:

- 1.1. M/s. Ashok Kumar Patel, Bina (hereinafter referred to as the Applicants) has been registered as a supplier of goods with GSTN under GSTIN 23AAFFA2103F1ZD.



- 1.2. In view of the above activity done by the applicant, the applicant have approach the authority seeking ruling on the question given below under MPGST Act,2017:

2. QUESTIONS RAISED BEFORE THE AUTHORITY –

Is any applicability of the notification number F-A-3-08-2018-1-V (43), DATED 24-4-2018 issued under MPGST Act/Rules on “unmanufactured tobacco” under CTH 2401.

3. DEAPRTMENT’S VIEW POINT:

The concerned officer of the SGST department submitted comments on the instant application wherein he opined that MPGST Notification no F-A-3-08-2018-1-V (43), DATED 24-4-2018 is not applicable on “unmanufactured tobacco” falling under chapter 2401.

4. RECORD OF PERSONAL HEARING:

The matter was posted for hearing on 29.06.2018 and Shri R. Hurkat, Advocate appeared on behalf of the Applicant. Reiterating the submissions already made in the application, he submitted that the applicant is engaged in packing and selling of agricultural product “unmanufactured tobacco” which is classified under CTH 2401. Government of MP has notified list of goods in consignment having value more than Rs. 50000/- where issuance of an E-way bill for intra state movement of such goods have been brought in effect from 25.04.18 in terms of Rule 138(14)(d) of MPGST Rules which covers headings 2402(Cigarettes) and 2403(Manufactured tobacco). In this notification the product “unmanufactured tobacco” which is classifiable under CTH 2401 is not mentioned. All the sales of the Applicant are related with Intra State movements. Hence this notification is not applicable on the Applicant. He further clarified that the applicant is not manufacturing any other goods notified in aforesaid notification. Accordingly the product dealt with by the Applicant i.e. “unmanufactured tobacco” classifiable under CTH 2401 is out of the purview of aforesaid Notification and Intra State e-way Bills are not applicable for Intra State movements. It was further submitted that the applicant are not engaged in manufacturing of any other goods notified in the notification. A copy of the said notification was attached by the applicant.

5. DISCUSSIONS AND FINDINGS:

- 5.1. We have carefully considered the facts put up before the authority by way of written submission and also those placed during the course of personal hearing. We find that the short point involved in the matter before us is regarding the applicability of notification number F-A-3-08-2018-1-V (43), DATED 24-4-2018 issued under MPGST Act/Rules on “unmanufactured tobacco” supplied by the applicant.

- 5.2. The Applicant is engaged in supplying “unmanufactured Tobacco” falling under Chapter 2401 of the GST Tariff. The applicant has desired to know the applicability of notification number F-A-3-08-2018-1-V (43), DATED 24-4-2018 issued by the Commissioner of State Tax Madhya Pradesh, in consultation with the Chief



Commissioner of Central Tax Madhya Pradesh, in exercise of the powers conferred by clause (d) of sub-rule (14) of Rule 138 of the Madhya Pradesh Goods and Services Tax Rules, 2017 which notifies non requirement of e-way bill with certain conditions on intra state movement of goods within Madhya Pradesh except for the goods mentioned in the table given in the notification.

5.3. It is important to reproduce the said notification here -----

NOTIFICATION NO.F-A-3-08-2018-1-V (43), DATED 24-4-2018

The Commissioner of State Tax Madhya Pradesh, in consultation with the Chief Commissioner of Central Tax Madhya Pradesh, in exercise of the powers conferred by clause (d) of sub-rule (14) of Rule 138 of the Madhya Pradesh Goods and Services Tax Rules, 2017 and in supersession of this department's Notification No. F-A-3-08-2018-1-V (41) dated 28th March, 2018, hereby, notifies that, No e-way bill shall be required to be generated for intra-state movement of goods in the State of Madhya Pradesh, except for the goods mentioned in the table given in the notification with certain conditions.

No e-way bill shall be required to be generated for intra-state movement of goods in the State of Madhya Pradesh, except for the goods mentioned in column No. (2), with its Chapter/Heading/Sub-heading/Tariff item in column No. (3) of the table given below, when the movement of such goods commences from within the area of any district of Madhya Pradesh and terminates within the area of any other district of Madhya Pradesh, subject to the condition that the consignment value for such goods exceeds Rs. fifty thousand.

TABLE

S. No.	Description of Goods	Chapter/Heading/Sub-heading/Tariff item
(1)	(2)	(3)
1.	Pan Masala	2106-90-20
2.	Confectionery	1704
3.	Plywood & Laminate Sheet	4412, 4408



4.	<i>All Types of Iron and Steel</i>	<i>2502, Chapter 26 (Other than 2621), 7201 to 7217, 7301, 7303 to 7308, 7312 to 7318, 7320, 7326, 7415</i>
5.	<i>Edible Oil</i>	<i>1507 to 1518</i>
6.	<i>Auto parts</i>	<i>8714 (excluding 8713), 8708 (excluding 8701)</i>
7.	<i>Cigarette/tobacco and tobacco products</i>	<i>2402, 2403</i>
8.	<i>Electric & Electronic goods mentioned in the chapter/HSN Codes</i>	<i>8412, 8415, 8418, 8419, 8422, 8423, 8443, 8450, Chapter 85, Chapter 90</i>
9.	<i>All types of Furniture mentioned in the chapter/HSN Codes.</i>	<i>Chapter 44, 9403</i>
10.	<i>Lubricants</i>	<i>2710</i>
11.	<i>Tiles, Ceramic Goods, Ceramic Blocks Ceramic Pipes etc.</i>	<i>6901, 6904 to 6907, 6910</i>



- 5.4. The above notification has been issued under the powers conferred by clause (d) of sub-rule (14) of Rule 138 of the Madhya Pradesh Goods and Services Tax Rules, 2017, which reads as follow –

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

(14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated–

- (a) -----
(b) -----
(c) -----
(d) in respect of movement of such goods and within such areas in the State and for values not exceeding such amount as the Commissioner of State Tax, in consultation with the Principal Chief Commissioner/Chief Commissioner of Central Tax, may, subject to conditions that may be specified, notify:

In exercise of the power conferred by above rule the said notification has been issued which exempt the requirement of generation of e-way bill for intra-state movement of the goods, except goods described with their Chapter/Heading/Sub-heading/Tariff item in the table of the notification.

- 5.5. In the table given in the said notification serial no 7 reads as follow-

7.	Cigarette/tobacco and tobacco products	2402, 2403
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Here the description of goods for which e-way bill is required for intra-state movement of the goods are Cigarette/tobacco and tobacco products but the Chapter/Heading/Sub-heading/Tariff item specified for these goods are 2402 & 2403.

- 5.6. Description of goods in Chapter HSN 2402 are “Cigars, Cheroots, Cigarillos and cigarettes, of tobacco or of tobacco substitutes”.

Similarly description of goods in Chapter HSN 2403 are “Other manufactured tobacco and manufactured tobacco substitutes “homogenised” or “reconstituted” tobacco; tobacco extracts and essences[including biris]”.

- 5.7. The description of goods in Chapter HSN 2402,2403 does not contain “unmanufactured tobacco”




5.8. “Unmanufactured tobacco” is classifiable under Chapter HSN 2401 which reads as follows ‘Unmanufactured tobacco: tobacco refuse [other than tobacco leaves]’.


5.9. Therefore having carefully going through the submissions of the Applicant, departments view and the notification number F-A-3-08-2018-1-V (43), DATED 24-4-2018 issued under MPGST Act/Rules 2017, it is amply clear that the generation of e-way bill is not required for intra-state movement of “unmanufactured tobacco” within the State of Madhya Pradesh as per the conditions given in the notification.

6. RULING under Section 98 of MPGST Act, 2017

In view of deliberations above, we pass the Advance Ruling:

The notification number F-A-3-08-2018-1-V (43), DATED 24-4-2018 issued under MPGST Act/Rules 2017, is not applicable on “unmanufactured tobacco” described under Chapter HSN 2401 i.e. to say generation of e-way bill for intra-state movement of “unmanufactured tobacco” described under Chapter HSN 2401 is not required as per the notification.


RAJIV AGRAWAL
(MEMBER)


MANOJ KUMAR CHOUBEY
(MEMBER)

No. 10/2018/A.A.R/R-28/27

Indore Dt. 25.07.2018

Copy to:-

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST)
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
The Jurisdictional Officer – State/Central

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