

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	23AABCS4997E1Z9
Name and address of the applicant	SPENTEX INDUSTRIES LTD, PITHAMPUR DISTT. DHAR (M.P.)
Point on which advance ruling sought	1. Clarification on complete procedure for Sr.No.1 & Explanation 1 to Notification No.48/2017-Central tax dtd.18.10.2017 for supplies by DTA to Advance Authorisation Holder 2. Applicability of <u>FTP 2015-20</u> Mid Term Review and procedure for procuring goods from DTA against Advance Authorisation.
Date of Personal hearing	22.06.18 & 17.07.18
Present on behalf of applicant	None
Case Number	06/2018
Order dated	19.07.18
Order No.	06/2018

PROCEEDINGS

1. BRIEF FACTS OF THE CASE:



- 1.1. M/s. Spentex Industries Ltd. (hereinafter referred to as 'the Applicant'), having its registered office at 51-A, B & C, Sector-III, Industrial Area, Pithampur Distt.Dhar (M.P.), are engaged in the manufacture of Textile Yarn. The Applicant are registered with the GSTN holding **GSTIN 23AADCK3039P2ZC**.
- 1.2. The Applicant, are having Advance Authorisation issued by the DGFT and invalidated for procurement of goods from indigenous supplier. Their supplier is having EPCG licence and supplying the goods under deemed export and charging IGST against such supplies. As per New Guidelines of the Foreign Trade Policy 2015-2020 Mid Term Review, the Ministry of Commerce and DGFT have provided that 'Exporters have been extended the benefit of sourcing inputs/capital goods from abroad as well as from domestic suppliers for exports without payment of duty'
- 1.3. As per Central GST notification no.48/2017-Central Tax dtd.18.10.2017, the Central Government has notified the supplier of goods for supply against Advance Licence as specified in Column 2 of the Table at S.No.1 as Deemed Exporter. In the said Notification in Explanation 3 the Government has accordingly issued Circular No.14/14/2017-GST dtd.06.11.2017 and has specified the procedure regarding supplies of goods from DTA by EOU/EHTP/STP/BTP Units under deemed export benefits.
- 1.4. Further, Foreign Trade Policy 2015-2020 Mid Term Review, Ministry of Commerce and DGFT allowing Advance Authorisation Holders to procure goods from DTA without payment of GST/IGST.
- 1.5. In view of the above, the applicant has posed following two questions before the Authority seeking Advance Ruling on the same:

2. QUESTIONS RAISED BEFORE THE AUTHORITY:

The following questions have been posed before the Authority, with reference to the activity undertaken by the Applicant:

- 2.1. *Please specify the complete procedure for S.No.1 & Explanation 1 of the Notification 48/2017-Central Tax dtd.18.10.2017 for supplies by DTA to Advance Authorisation Holder?;*
- 2.2. *Please specify the applicability of Foreign Trade Policy 2015-2020 Mid Term Review and specify procedure for procuring goods from DTA against Advance Authorisation?*

3. DEAPRTMENT'S VIEW POINT:

The Concerned Officer of MPGST department has opined that the question raised in the instant application relate to implementation and applicability of Foreign Trade Policy 2015-2020 Mid Term Review, which do not fall under the ambit of Section 97(2) (a) to (g) of the CGST Act 2017/MPGST Act 2017.

4. RECORD OF PERSONAL HEARING:



The matter was listed for personal hearing on 22.06.18 and 17.07.18 However, no one for or on behalf of the Applicant turned up on the both appointed date, nor any adjournment was sought. Accordingly, it is presumed that the Applicant does not have anything more to add to the submissions already made in the application. Hence we are inclined to consider the matter on the basis of facts brought on record before us.

5. DISCUSSIONS AND FINDINGS:

5.1. We have carefully considered the submissions made by the applicant in the application and also the opinion of the department placed on record. Before we take up the matter for consideration on merits, it is necessary to examine it from the point of view of admission of the application, particularly with reference to the law laid down for Advance Ruling.

5.2. Provisions for Advance Ruling have been brought out under Chapter XVII of the CGST Act 2017. Section 97(2) of the CGST Act 2017 describes the questions on which Advance Ruling can be sought. The same is reproduced hereunder

Section 97(2) *The questions on which the advance ruling is sought under this Act, shall be in respect of, -*

- (a) *Classification of any goods or services or both;*
- (b) *Applicability of a notification under the provisions of this Act;*
- (c) *Determination of time and value of supply of goods or services or both;*
- (d) *Admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) *Determination of the liability to pay tax on any goods or services or both;*
- (f) *Whether applicant is required to be registered;*
- (g) *Whether any particular thing done by the applicant with respect to any goods or services or both amount to or results in a supply of goods or services or both, within the meaning of that term.*

5.3. Thus, Section 97(2) clearly and vividly defines the nature and scope of questions on which Advance Ruling can be sought. We find that the questions posed before the Authority in the instant case, do not classify under any of the categories (a) to (g) brought out under Section 97(2) *supra*. To be more precise; in Question 1, the Applicant has asked the authority to “...specify the complete procedure for S.No.1 & Explanation 1 of the Notification 48/2017-Central Tax dtd.18.10.2017 for supplies by DTA to Advance Authorisation Holder”, (Emphasis supplied). Needless to say that procedure laid down under the said Notification is loud and clear and has to be followed in letter and spirit. Further, the Authority is neither obliged nor mandated by the CGST Act 2017 to clarify or specify any procedure brought into effect by a Notification. As per Section 97(2)(b) ruling can be sought on ‘*Applicability of a notification under the provisions of this Act*’, but we find that the Applicant have not questioned applicability of a notification. On the contrary, the applicant admittedly agrees to the applicability of the notification. In the



given circumstances, we do not find any reason to entertain Question No.1 posed in the instant Application.

5.4. Now, coming to Question No.2, the Applicant has sought to '*...specify the applicability of Foreign Trade Policy 2015-2020 Mid Term Review and specify procedure for procuring goods from DTA against Advance Authorisation*'. Here again we find that the question is beyond the ambit of Section 97(2), as it relates to applicability of Foreign Trade Policy 2015-2020 Mid Term Review and the related procedure. Obviously, the Applicant has sought a ruling for applicability of Foreign Trade Policy which is clearly beyond the ambit of Authority for Advance Ruling constituted under CGST Act 2017/MPGST Act 2017. We thus do not find the application worthy of admission.

5.5. In view of the discussions foregoing, the application filed by the applicants, being beyond the scope of Section 97(2), merits rejection at the stage of admission itself, without going into the merits of the case in terms of Section 98(2) of the CGST Act 2017/MPGST Act 2017.

RULING

6. The Application for Advance Ruling filed by the Applicant is rejected in terms of Section 98(2) of the CGST Act 2017/MPGST Act 2017.

-sd-
RAJIV AGRAWAL
(MEMBER)

-sd-
MANOJ KUMAR CHOUBEY
(MEMBER)

No. 06/2018/A.A.R/R-28/26

Indore Dt. 19.07.2018

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, Ujjain
5. The Concerned Officer
The Jurisdictional Officer – State/Central

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[Handwritten Signature]

