



**RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX**

**KAR BHAWAN, AMBEDKAR CIRCLE, NEAR
RAJASTHAN HIGH COURT
JAIPUR - 302005 (RAJASTHAN)**



ADVANCE RULING NO. RAJ/AAR/2019-20/18

J.P.Meena Additional Commissioner	:	Member (Central Tax)
Hemant Jain Joint Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Parmod Kumar Singala, Chak 3 RTP, Tibbi Road, Sangaria Hanumangarh, Rajasthan 335063
GSTIN of the applicant	:	08AFEPS8987D1ZT
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	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 ;
Date of Personal Hearing	:	08.08.2019
Present for the applicant	:	Shri Abhay Singla, Advocate & Ms Priyamvada Joshi, Advocate (Authorised Representatives)
Date of Ruling	:	22.08.2019

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.



- *At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".*

- The issue raised by *M/s Parmod Kumar Singala, Chak 3 RTP, Tibbi Road, Sangaria Hanumangarh, Rajasthan 335063* (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (d) & (e) given as under:
 - 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;

- Further, the applicant being a registered person (GSTIN is 08AFEPS8987D1ZT as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

1. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

- The Applicant is a Proprietorship Firm and is registered under the provisions of Central Goods & Services Tax Act, 2018 read with the provisions of the Rajasthan Goods & services tax Act, 2017 having GSTIN 08AFEPS8987D1ZT.



- That the Applicant is engaged in the business of manufacturing and production of Loose Cotton, Cotton Seeds, Cotton Seed Oil and by-product Cotton seed oil cake from raw cotton (NARMA) at Sangaria in the State of Rajasthan. The Raw Cotton (Narma), Loose Cotton, Cotton Seeds, Cotton Seed Oil is taxable at the rate of 5% under GST and Cotton seed oil cake is taxable at the rate of 0% under GST.
- That the applicant has been granted a license for manufacture and production of Loose Cotton, Cotton Seeds, Cotton Seed Oil and by-product Cotton seed oil cake from raw cotton (NARMA) at Sangaria in the State of Rajasthan by the State Government. That in light of the above, the applicant wishes to get better understanding regarding taxability and claim of Input Tax Credit on the exempted by-product Cotton Seed Oil Cake.

2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:

- What will be the treatment of claiming of Input Tax Credit under Section 16 of the GST Act in regard to by-product Cotton Seed Oil Cake which is taxable at 0%?
- Whether the provision of Apportionment Input Tax Credit u/s 17 of GST Act will be also applicable on the by-product Cotton Seed Oil Cake?
- What will be the treatment of claiming of Input Tax Credit on Raw Cotton purchased from agriculturist on whom tax @ 5% is paid under Reverse Charge Mechanism?
- What will be the treatment of claiming of Input Tax Credit on Plastic Bags (Bardana) which is only used for packing of the cotton seed oil cake?

- Whether the applicant has to reverse the Input Tax Credit for the period of 2017-18, 2018-19 as per the Rule 42 of the CGST Rules, 2017?

3. PERSONAL HEARING



In the matter personal hearing was granted to the applicant on 08.08.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. On behalf of the applicant Shri Abhay Singla, Advocate & Ms Priyamvada Joshi, Advocate (Authorised Representatives) appeared for PH. During the PH, they reiterated the submissions already made in the original application and requested for early disposal of the application.

4. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdiction officer (Assistant Commissioner, CGST Division-I, Central Tax, Jodhpur Commissionerate, Jodhpur) has submitted his comments vide letter dated 25.07.2019 and stated that,

- a. Section 16 (1) of GST Act, 2017 states that- *Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*

In view of the above section, the applicant is entitled to take credit of the ITC charged on any supply of goods or services or both to him which are used or

intended to be used in the course or furtherance of his business.



- b. Section 17(2) of the GST Act, 2017 states that- *Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.*

In view of the above said section , the amount of credit shall be restricted to so much of the input tax is attributable to the said taxable supplies including zero rated supplies. Therefore, the applicant has to reverse the amount of credit used in the manufacture and sell of the product which attracts GST @ 0%.

Thus, as per Section 16(1) of the GST Act, 2017 they are entitled to take credit of the input tax but as per Section 17(2) of the GST Act, 2017 they have to reverse the amount of credit used in the manufacture and sell of the product which attracts GST@0%.

- c. Since the Plastic bags (Bardana) which is the only used for packing of the Cotton Seed oil Cake is an integral part of the Cotton Seed oil Cake and Cotton Seed oil Cake cannot be sold without plastic bags. Therefore, though they are entitled to take credit of input tax suffered on Bardana but will have to reverse the same.



- d. In view of the above the applicant has to reverse the ITC for the period of 2017-18, 2018-19 as per Rule 42 of the GST Rules, 2017.
- e. Further, the applicant has relied upon some judgments which are not relevant here since no facility has been provided in GST Act, 2017 to use the ITC suffer on effecting exempt supplies.

In view of the above the applicant should not be given the permission to use the ITC suffer on effecting exempt supplies.

5. FINDINGS, ANALYSIS & CONCLUSION:

- That the applicant is engaged in the business of manufacturing and production of Loose Cotton, Cotton Seeds, Cotton Seed Oil and by-product Cotton seed oil cake at Sangaria in the State of Rajasthan and has been granted a license for manufacture and production of same. The Loose Cotton, Cotton Seeds, Cotton Seed Oil are taxable at the rate of 5% under GST and Cotton seed oil cake is taxable at the nil rate of GST.

The GST Rates and their HSN Code of the above mentioned goods are as under:

HSN CODE	ITEM	CGST RATE
5201	Raw Cotton	2.5%
5201	Loose Cotton	2.5%
1207	Cotton Seed	2.5%
1512	Cotton Seed Oil	2.5%
2306	Cotton Seed Oil Cake	0%
3923	Plastic Bag (Bardana)	9%

- The Section 16 of GST Act, 2017 states about eligibility and conditions for taking Input Tax Credit. The relevant portion is as under:



16(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

16(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,-

- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying documents as may be prescribed;*
- (b) He has received the goods or services or both*

*Explanation—*for the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-

- (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*
- (ii) Where the services are provided by the supplier to any person on the direction of and on account of such registered person.]*



- (c) subject to the provisions of section 41 [or section 43A], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and
- (d) He has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or installments, the registered person shall be entitled to take credit upon receipt of the last lot or installment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

- (3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.
- (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing

of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.



In view of the above, the applicant is entitled to take credit of the ITC charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business.

- That Section 17(2) of the GST Act, 2017 states about Apportionment of Credit and Blocked Credits. The relevant portion is as under:

17(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

Thus, where any goods or services or both are used by the registered person partially for taxable supply including zero rated supply and partially for the exempted supply then in that case the claim of ITC shall be restricted to the extent of taxable supply including zero rated supply.

The applicant has quoted the case of *Union of India vs M/S Hindustan Zinc Ltd, Civil Appeal No. 8621 of 2010* where during the production of Zinc the Sulphur is obtained as by-product. The Apex Court made an observation and held that



the production of Sulphur is a part of technological necessity during the production of Zinc and no technology in the world can stop the production of the Sulphur during the production of Zinc. But in the instant case, the context of technological necessity cannot be applied as applicant has moved beyond the ginning and has processed on cotton seed which has yielded cotton seed oil, cotton seed oil cake etc.

- The manner of apportionment and determination of ITC is mentioned in Rule 42 of GST Rules, 2017, the relevant extract is reproduced here:-

42. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof.-(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the total input tax involved on inputs and input services in a tax period, be denoted as 'T';

(b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as 'T1';

(c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';

(d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as 'T3';



(e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as $C1 = T - (T1+T2+T3)$;

(f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T4';

(g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2;

(h) input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C2' and calculated as $C2 = C1 - T4$;

(i) the amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as $D1 = (E+F) \times C2$ where, 'E' is the aggregate value of exempt supplies during the tax period, and 'F' is the total turnover in the State of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for



business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent. of C2; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C3', where,- $C3 = C2 - (D1 + D2)$;

(l) the amount 'C3' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;

(m) the amount equal to aggregate of 'D1' and 'D2' shall be added to the output tax liability of the registered person:

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.

In view of the provisions of Section 17(2) of GST Act, 2017 read with rule 42 of GST Rules, 2017 as stated above, the amount of credit shall be restricted to so much of the input tax is attributable to the said taxable supplies including zero rated supplies. The applicant has to reverse the amount of credit used in the manufacture and sell of the product which attracts nil rate or exempted from GST.

- The raw cotton is purchased by the applicant from agriculturist and tax @ 5% is paid under Reverse Charge Mechanism by him. They are eligible for claiming of ITC as per Section 16, however, the credit is to be restricted to the extent of input tax attributable to the taxable supplies

including zero rated and has to reverse the amount of input tax attributable to the exempted supply i.e. Cotton seed oil cake in terms of Section 17(2) of GST Act, 2017.



- Further, the Plastic bags (Bardana) which is used only for packing of the Cotton Seed oil Cake is an integral part of the Cotton Seed oil Cake and Cotton Seed oil Cake cannot be sold without plastic bags. Therefore, though they are entitled to take credit of input tax suffered on Bardana but will have to reverse the same as per provisions of Section 16 and 17 of GST Act, 2017.
- The authority is mandated to pronounce ruling on matters which are either being undertaken or proposed to be undertaken (as mentioned in Section 95(a) of GST Act). The issue i.e. *"whether the applicant has to reverse the Input Tax Credit for the period of 2017-18, 2018-19 as per the Rule 42 of the CGST Rules, 2017?"* is not covered under Section 95(a) of GST Act therefore no ruling is to be given on this issue.


6. In view of the foregoing, we rule as follows:-

RULING

- As per Section 17(2) of GST Act, 2017 the amount of credit shall be restricted to so much of the input tax that is attributable to the taxable supplies including zero rated supplies. As the Cotton Seed Oil Cake is exempt from GST, the applicant has to reverse the amount of credit attributable to the supply of the Cotton Seed Oil Cake as per provisions and procedure prescribed under Section 17(2) of GST Act, 2017 read with rule 42 of GST Rules, 2017.



- The provision of Apportionment of Input Tax Credit u/s 17 of GST Act will be applicable on the by-product Cotton Seed Oil Cake.
- The applicant is eligible to claim Input Tax Credit on Raw Cotton purchased from agriculturist on whom tax @ 5% is paid under Reverse Charge Mechanism under Section 16 of GST Act, 2017, however, the amount of credit shall be restricted to so much of the input tax that is attributable to the taxable supplies including zero rated supplies as per Section 17 (2) of GST Act, 2017.
- The input tax credit on Plastic bags (Bardana) is eligible as per Section 16 of GST Act, 2017 but in the instant case as the applicant is using Plastic bags (Bardana) exclusively for packing of the Cotton Seed oil Cake which is exempt from GST therefore, the applicant have to reverse the input tax credit on Plastic bags (Bardana) as per provisions of Section 17 (2) of GST Act, 2017.
- As the subject matter pertains to past-period therefore no ruling is given on this issue under Section 95(a) of GST Act, 2017.


J.P. MEENA ^{22/8/19}
Member
(Central Tax)

O/C


HEMANT JAIN ^{22/8/19}
Member
(State Tax)

SPEED POST

M/s Parmod Kumar Singala,
Chak 3 RTP, Tibbi Road,
Sangaria Hanumangarh,
Rajasthan 335063



F. No. AAR/PKSINGALA/2019-20/136-37 Dated: 26.08.2019

Copy to: OIC

1. Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur 302005.
2. Commissioner, Central Tax, Jodhpur Commissionerate, G-105, New Industrial Area Basni, Near Diesel Shade, Jodhpur, Rajasthan 342003.
3. Assistant Commissioner, Central Tax (CGST), CGST Division-I, 1st Floor, Customs House, (C R Building), Sukhadiya Nagar, Near Kangan Marriage Palace, Shri Ganganagar, Rajasthan 335001. (e-mail: wn09cgst@gmail.com)