



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri V. Srinivas, IRS, Joint Commissioner (Central Tax)

Sri J. Laxminarayana, Additional Commissioner (State Tax)

A.R.Com/14/2018

Date. 02-07-2018

TSAAR Order No. 7/2018

Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order.

M/s. Manjira Machine Builders (P) Ltd , Flat No. 307 & 308 , Bhanu Enclave , Sundernagar, Hyderabad-500038 has filed an application in Form GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 103 of CGST/TGST Rules, 2017 and stated that all the DRDO labs and Satish Dhawan Space Centre (SDSC SHAR, ISRO < Sriharikota), Vikram Sarabhai Space Centre (VSSC, ISRO, Thiruvananthapuram), while issuing their enquiries and purchase orders, they are mentioning against the IGST/GST column that "As per Government of India, MoF (Department of Revenue) Notification No. 47/2017 dated 14.11.2017, certificate for concessional tax (Integrated tax @ 5%) will be issued". In this regard they sought Advance Ruling on the following issues:

- (i) Is the concessional tax rate of 5% as given under Notification No. 47/2017 dated 14.11.2017 is applicable only for Interstate sales i.e., on IGST or also applicable for sales within the state i.e., on SGST & CGST.
- (ii) If this concessional tax rate of 5% is applicable for both Interstate and within the state sales, then can we avail the Input tax credit (ITC) for the raw materials used for these supplies.

2. The applicant submitted the application in Form GST ARA-01 and have submitted a copy of Challan evidencing payment of application fee of Rs.5,000/-.

3. With regard to the clarification sought by the applicant on the first question, it is to be mentioned that Government of India vide Notification. No.47/2017-Integrated Tax(Rate) dt.14.11.2017 exempts the goods specified in column (3) of the Table , from the so much of the integrated tax leviable thereon under section 5 of the said Act, as in excess of the amount calculated at the rate of **5 per cent.**, when supplied to the institutions specified in the corresponding entry in column (2) of the Table, subject to the conditions specified in the corresponding entry in column (4) of the said table given in the notification.

4. In respect of such clearances effected within the State, similar Notification has been given by the Govt. of India vide Notification No. 45/2017-Central Tax (Rate) dated 14.11.2017 which exempts the goods specified in column (3) of the Table, from the so much of the central tax leviable thereon under section 9 of the said Act, as in excess

of the amount calculated at the rate of **2.5 per cent.**, when supplied to the institutions specified in the corresponding entry in column (2) of the Table, subject to the conditions specified in the corresponding entry in column (4) of the said table given in the notification. The total tax payable under GST in respect of such clearances effected within the state is 5% (2.5% CGST+2.5% SGST).

5. With regard to Second question, it is to clarify that Section 17 (5) of the Central Goods & Services Tax Act, 2017 (which is reproduced hereunder for the ease of reference) has clearly mentioned the list of goods and services on which input tax credit is not allowed.

Section 17(5) of TGST Act, 2017 : *Notwithstanding anything contained in subsection (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:—*

- (a) *motor vehicles and other conveyances except when they are used—*
 - (i) *for making the following taxable supplies, namely:—*
 - (A) *further supply of such vehicles or conveyances ; or*
 - (B) *transportation of passengers; or*
 - (C) *imparting training on driving, flying, navigating such vehicles or conveyances;*
 - (ii) *for transportation of goods;*
 - (b) *the following supply of goods or services or both—*
 - (i) *food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;*
 - (ii) *membership of a club, health and fitness centre;*
 - (iii) *rent-a-cab, life insurance and health insurance except where—*
 - (A) *the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or*
 - (B) *such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and*
 - (iv) *travel benefits extended to employees on vacation such as leave or home travel concession;*
 - (c) *works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;*
 - (d) *goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.*
- Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;*
- (e) *goods or services or both on which tax has been paid under section 10;*
 - (f) *goods or services or both received by a non-resident taxable person except on goods imported by him;*

- (g) goods or services or both used for personal consumption;
(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

6. However, goods and services on which concessional rate of tax is applicable are not figured in the list. Hence, the ITC is allowed on the supplies effected by paying duty at concessional rate of tax. Moreover, the supplies effected at concessional rate of duty are not exempt supplies. Hence, Input tax credit is allowable on the raw materials used for these supplies.

7. The clarification sought in the application has been examined with reference to the provisions of the CGST/TGST Act, 2017 and the Rules made there under and the notifications issued till date; and the Advance Ruling is given as under:

(i) The concessional rate of tax @ 5% as given under Notification No. 47/2017-Integrated Tax(Rate) dated 14.11.2017 is applicable only for Interstate sales i.e., on IGST and concessional rate of tax @ 2.5% CGST + 2.5% SGST is applicable for Intrastate supplies as per Notification No. 45/2017-Central Tax (Rate) dated 14.11.2017.

(ii) Input tax credit is available on the raw materials used for the supplies made under concessional rate of tax in accordance with Notification No. 47/2017-Integrated Tax(Rate) dated 14.11.2017 and Notification No. 45/2017-Central Tax (Rate) dated 14.11.2017.

8. The application filed by M/s .Manjira Machine Builders (P) Ltd, Flat No. 307 & 308, Bhanu Enclave, Sundernagar, Hyderabad-500038 is disposed accordingly.

Sd/- J. Lakshminarayana
ADDL. COMMISSIONER (State Tax)

Sd/- V. Srinivas
JOINT COMMISSIONER (Central Tax)

To

M/s. Manjira Machine Builders (P) Ltd ,
Flat No. 307 & 308,
Bhanu Enclave , Sundernagar,
Hyderabad-500038

Copy to:

1.The Joint Commissioner (State Tax), Secunderabad Division.

2.The Assistant Commissioner (State Tax), Tarnaka Circle.

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Additional Commissioner (ST)