

**BEFORE THE AUTHORITY FOR ADVANCE
RULINGS FOR THE STATE OF UTTARAKHAND
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)

श्री विपिन चन्द्र (सदस्य)

Shri Amit Gupta (Member)

श्री अमित गुप्ता (सदस्य)

The 28th day of May, 2020

Ruling No: 02/2020-21

अग्रिम विनिर्णय संख्या.

In

Application No: 11/2019-20

आवेदन संख्या. 11/2019-20

1	Applicant आवेदक	M/s. Uttarakhand Forest Development Corporation, 73-Nehru Road, Dehradun Uttarakhand
2	Jurisdictional Officer अधिकारिता अधिकारी	Sector-3, Dehradun
3	Present for the Applicant आवेदक की ओर से उपस्थित	Mr. Anand Singh Rawat, CA
4	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	None
5	Concerned Officer	Mr. Manish Mishra, DC (SGST)
6	Date of receipt of application आवेदन प्राप्ति की तिथि	17.12.2019
7	Date of Personal Hearing सुनवाई की तिथि	21.01.2020

Note : Under Section. 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

नोट : इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX
UTTARAKHAND**

RULING

1. This is an application under Sub-Section (1) of Section 97 of the CGST/SGST Act, 2017 (herein after referred to as Act) and the rules made thereunder filed by M/s. Uttarakhand Forest Development Corporation, 73-Nehru Road, Dehradun, Uttarakhand (here in after referred to as '**the applicant**') is registered with the GSTN having Registration No. 05AAALU0009M0ZG and seeking advance ruling on the following questions in terms of Notification no. 13/2017-Central Tax (Rate) dated 28.06.2017:
 - a. Whether a person, unregistered with GST, providing road transport services by his own truck as GTA for RCM under GST;
 - b. Will issuance of E-way bill, Form 2.1 & 3.3 by or to road transporter who is unregistered with GST, providing road transport services by his own truck, be treated as consignment note for GST-RCM purposes;
 - c. Whether a person, unregistered with GST providing road transport services by hiring trucks from third party, to applicant, will be treated as GTA for RCM under GST;
 - d. Will issuance of E-way bill, Form 2.1 & 3.3 by or to road transporter who is unregistered with GST providing road transport services by hiring trucks from third party be treated as consignment note for GST-RCM purposes.
2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
3. As per the said subsection (2) of Section 97 of the Act advance ruling can be sought by an applicant in respect of :
 - (a) Classification of any goods or services or both

- (b) Applicability of a notification issued 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 the applicant is required to be registered
 - (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term
4. Since applicant has sought advance ruling on classification & determination of tax liability, therefore, in terms of said Section 97(2)(a), (b) & (e) of the Act, the application filed by the applicant was admitted. Accordingly hearing was fixed on 21.01.2020 which was attended by the Shri Anand Singh Rawat, Chartered Accountant on behalf of the applicant. During the course of hearing Shri Manish Mishra (DC), concerned officer of SGST-Uttarakhand was also present.
5. On perusal of record, we find that the applicant is a Govt. body constituted under Act of State Assembly of Uttarakhand State. The applicant is sole agency for removal and sale of forest produce from the entire forest area in Uttarakhand. The applicant after felling trees gets timber transported to its sale depots. For this purpose the applicant hire truck transporter from open market accordingly as per availability of vehicles and get transported to its sales depot from road head. Due to unique nature of goods, the applicant itself fills Form 2.1 for transportation of goods which is called "Ravana". Form 2.1 is printed format of applicant to transport timber from one place to another. The said form carries details of material, vehicle no., name of driver & signature & other details. Thereafter the goods are handed over to transporter with signed Form 2.1. The transporter has liability to transport goods safely to the destination sales depot of applicant. The truck transporter after delivering the goods receives Form 3.3 from depot officer of applicant which proves that he has delivered the goods. Thereafter depot officer verifies the goods as per Form 2.1 and return the same to Logging officer who dispatched the goods to sale depots. After receiving verified Form 2.1, the Logging officer makes final payment to the transporter. For completion of such process, the transporter use their own trucks and sometimes the transporter hire the trucks for intended purpose. The applicant makes payment of transportation charges to one person who accepted the transport of goods on pre decided rates by applicant. Further transporters does not issue any consignment note.

6. In the present case we are not deciding any wider question but restricting our conclusion to the facts and circumstances which was filed for our consideration in the application. In this context, the relevant legal provisions are reproduced as under:

A. Section 2(98) of the Act has defined the term "Reverse Charge" and the same is reproduced as follows:

"reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of Section 9, or under sub-section (3) or sub-section (4) of Section 5 of the Integrated Goods and Services Tax Act.

B. Section 9(3) of the Act: The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

C. Section 9(4) of the Act: The Government may, on the recommendation of the Council, by notification specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

D. Relevant para of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017

Sl.No.	Chapter, Section or Heading	Description of Service	Rate (%)	Condition
(1)	(2)	(3)	(4)	(5)
9	Heading 9965 (Goods transport services)	(iii) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). Explanation.- "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken

E. Relevant para of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017 in respect of RCM

Sl.No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1.	<p>Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to-</p> <p>(a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or</p> <p>(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person</p>	Goods Transport Agency (GTA)	<p>(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or</p> <p>(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p>

7. On perusal of legal provisions (supra), we find that the concept of Reverse Charge Mechanism (in short 'RCM') is incorporated under GST wherein the Government has notified not only supply of certain services but also supply of certain goods under RCM. Under RCM the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider. We also find that there are following provisions under which GST is payable under RCM:
- a. First is dependent on the nature of supply and/or nature of supplier. This scenario is covered by section 9 (3) of the Act.
 - b. Second scenario is covered by section 9 (4) of the Act where notified taxable supplies by any unregistered person to a registered person is covered.
- 7.1 As per the provisions of section 9(3) of Act, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. We find that a list of goods on which GST is payable under section 9(3) of the Act is given in the Notification No. 4/2017-Central Tax (Rate) dated 28.06.2017 and the category of services on which tax is payable is enumerated in the Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017. On perusal of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017, I find that the services rendered by the 'Goods Transport Agency' in short (GTA) falls under 'Reverse Charge Mechanism' (in short RCM).
- 7.2 Further we find that services provided by "GTA" in respect of transport of goods by road is a taxable event. As per Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.
- 7.3 We find that consignment note' has not been defined in the Act or in the Notification either. In this context we take the help of Explanation to Rule 4B of Service Tax Rules, 1994 wherein the "consignment note" has been defined *as a document provided by a goods transport agency against the receipt of goods for the transport of goods by roadways in a goods carriage. The document contains the details like serial number, name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of goods being transported, details of the place of origin and destination, and the person who will be liable for the service tax payable from the consignor, consignee or the goods transport agency.*

- 7.4 In the instant case we find that the applicant itself fills Form 2.1 for transportation of goods from one place to another. The said form carries details of material, vehicle no., name of driver & signature & other details. Thereafter the goods are handed over to transporter with signed Form 2.1. **The transporter has liability to transport goods safely to the destination sales depot of applicant.** The truck transporter after delivering the goods receives Form 3.3 from depot officer of applicant which proves that he has delivered the goods. Thereafter depot officer verifies the goods as per Form 2.1 and return the same to Logging officer who dispatched the goods to sale depots. After receiving verified Form 2.1, the Logging officer makes final payment to the transporter.
- 7.5 We find that in this case it can be treated that the applicant has made an arrangement in place of consignment note by issuing Form 2.1 in the style of bilty which they handover to the transporters and after delivery of the goods, the transporters receives Form 3.3 from depot officer which proves that he has delivered the goods. After verification of the goods as per Form 2.1, the payment is released to the transporters.
- 7.6 We also find that Form 2.1 issued by the applicant contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, etc. Thus, We observe that the said Form is a consignment note in terms of Explanation to the Rule 4B of the Rules. Further the transporter is liable for safe delivery of goods to the destination.
- 7.7 We further observe that the purpose of issuing consignment note indicates that the lien on the goods has been transferred to the transporter and the transporter becomes responsible for the goods till its safe delivery to the consignee. In the present case also, by issuing Form 2.1 by the applicant, the goods are handed over to the transporter and transporter becomes responsible for the goods till its safe delivery to the destination. For the sake of argument that for being treated as goods transport agency issuance of consignment note is must. If such argument is accepted than there will be no need to pay GST by a person providing service of goods transport merely on a ground that he is not issuing consignment note. And this will open an avenue for evasion by the service providers. This must not have been

the intention of the legislature to not tax the service providers who were not issuing consignment notes.

7.8 In view of the above discussion & findings, we hold that Form 2.1 may be treated as consignment note, thus the condition of GTA is fulfilled and thus the services procured from unregistered person for transportation of goods fall under the definition of GTA and the applicant is liable to pay GST on the same under RCM.

8. In view of the above, we pass the following order:

ORDER

- i. Services received from the unregistered transporters 'by the applicant falls under the definition of "GTA" services in terms of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and the same are covered under 'RCM' in terms of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017.
- ii. Form 2.1 issued by the applicant can be considered as a consignment note.


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

To,

M/s. Uttarakhand Forest Development Corporation,
73-Nehru Road,
Dehradun, Uttarakhand

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX: UTTARAKHAND
OFFICE OF THE COMMISSIONER, SGST, UTTARAKHAND
LADPUR RING ROAD, UPPER NATHANWALA, DEHRADUN**

F. No. : 291 State Tax-UKD/GST/Sec -97/D.dun/2020-21

Dated: 29/5/2020

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for review.
2. The Commissioner, CGST, Commissionerate, Dehradun for review.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for review.
4. The Assistant Commissioner, CGST Division, Dehradun for review.
5. The Deputy Commissioner, SGST, Dehradun for review.
6. The Concerned officer, CGST, Dehradun.
7. The Concerned officer, SGST, Dehradun
8. Registrar AAAR Uttarakhand.
9. ✓ Guard File.