

**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 18th day of October, 2019

Ruling No: 05/2019-20

अग्रिम विनिर्णय संख्या.

In

Application No: 03/2019-20

आवेदन संख्या. 03/2019-20

1	Applicant आवेदक	M/s. G B Pant University of Agriculture & Technology, Pantnagar, U S Nagar, Uttarakhand
2	Jurisdictional Officer अधिकारिता अधिकारी	Assistant Commissioner-III, State Tax Rudrapur
3	Present for the Applicant आवेदक की ओर से उपस्थित	Mr. Chirag Mathur
4	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	None
5	Concerned Officer	-
6	Date of receipt of application आवेदन प्राप्ति की तिथि	16.05.2019
7	Date of Personal Hearing सुनवाई की तिथि	11.09.2019

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. G B Pant University of Agriculture & Technology, Pantnagar, U S Nagar, Uttarakhand (here in after referred to as **'the applicant'**) is registered with the GSTN having Registration No. 05AAAJG1923C1ZX for providing services seeking advance ruling on the following questions:
 - a. Identification of HSN code of service provided in relation to "on field testing for Bio Efficacy, Phyto-toxicity and other tests on plants for evaluation of insecticide".
 - b. Determination of applicable tax rate payable as per respective HSN & exemption, if any.
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

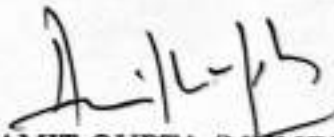
4. Since applicant has sought advance ruling on classification and applicability of GST rate on the services rendered , therefore, in terms of said Section 97(2)(a) & (e) of the Act, the application filed by the applicant was admitted. Accordingly hearing was fixed on 26.06.2019 which was attended by the Shri S K Mathur, Advocate on behalf of the party. During hearing proceedings, it was learnt that Deputy Commissioner, STF, SGST-Rudrapur is conducting an inquiry on the same issue. In this context a letter dated 18.07.2019 was written to the Deputy Commissioner, STF, SGST-Rudrapur to submit a report in this regard. Consequently Deputy Commissioner, STF, SGST-Rudrapur vide his letter dated 24.07.2019 intimated the Additional Commissioner, Advance Ruling, Uttarakhand that the testing services are matter of concern as a whole in ongoing investigation.
5. Accordingly notice to show cause dated 07.08.2019 was issued to the applicant wherein they were required to Show Cause to the Advance Ruling Authority, Uttarakhand , Dehradun within fifteen days of receipt of this notice as to why the said application filed by them should not be rejected as per proviso to Section 98 of the Act.
6. The personal hearing in the instant case was fixed on 11.09.2019 which was attended by Sh Chirag Mathur, Advocate on behalf of the applicant. During the course of hearing proceedings he submitted defence submissions in this regard and the same is summarized as under:
 - a. That they sought advance ruling on the ground whether the bio-efficacy test conducted by them is subject to exemption or not, however they are paying GST @ 18% on the said service.
 - b. That it is untrue on the part of the Deputy Commissioner, STF, SGST-Rudrapur that he is conducting inquiry on testing services rendered by them, as up-till date no information has been sought by him on the matter. Enquiry is conducted by him on exemption availed by service providers supplying farm labours to them and availing exemption under GST.
 - c. That they are discharging GST at full rate, thus there is no scope of leakage off revenue, hence the said officer submissions that he is conducting an inquiry is hypothetical.
 - d. That due to some internal reasons they were unable to pay GST on testing service, however they have now discharged their tax liability in the month of March' 2019.
 - e. That they had charged the tax from the customers @ 18% and discharged their tax liability from January 2019, the allegation levelled based on the report of said officer is baseless and liable to be dropped. Being a reputed Govt. Institution the application for advance ruling may be admitted & decided on merit.

7. A report vide letter dated 26.09.2019, on the defence submissions of applicant, was sought from the Joint Commissioner, SGST-Rudrapur who vide his letter dated 03.10.2019 intimated that:
- the applicant is paying GST @ 18% in respect of said services
 - the investigation in respect of services falling under SAC- 9986 is under consideration
8. On perusal of letter dated 24.07.2019 of Deputy Commissioner (STF), Rudrapur , we find that the investigation against the applicant is being carried out on various services including "testing of soil and other laboratories services" and the said fact is also communicated by the Joint Commissioner, SGST, Rudrapur vide his letter dated 03.10.2019.
9. Thus we observe that since the question raised in the application is pending with SGST Authorities under the provisions of this Act, therefore as per proviso to section 98(2) of the Act the said application filed by the applicant is hereby not admitted. The relevant legal provisions in this regard are reproduced as under:

Section 98(2): *The Authority may, after examining the application and the records called for and after hearing the applicant or his authorized representative and the concerned officer or his authorized representative, by order, either admit or reject the application:*

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

To,

M/s. G B Pant University of Agriculture & Technology,
Pantnagar, U S Nagar, Uttarakhand

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

F. No. : 03/ST-UKD/ GST/ sec-97/ DBM/ 2019-20/ 4421 Dated: 17/10/19

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, Rudrapur for review.
5. The Deputy Commissioner, SGST, Rudrapur for review.
6. The Concerned officer, CGST, Dehradun.
7. The Concerned officer, SGST, Dehradun
8. Guard File.
9. The Registrar, AAAR.

Report on Advance Rulings by AAR

Name of State/UT	UTTARAKHAND				Period of Reporting (Month)				Oct-19
	Opening Balance	Receipt	Disposal*	Closing Balance	Sl. No.	Order / Ruling No	Date	Name of the Applicant	
1	2	3	4	5	6	7	8	9	10
2	1	1	2	1	3	17/10/2019	M/S G.B Pant University of Agriculture and Technology.	1- Identification of HSN code of service provided in relation to "on field testing for bio efficacy. Phytotoxicity and other tests on plants for evaluation of insecticide" 2-Determination of applicable tax rate payable as per respective HSN and exemption if any?	(A)

*Details of Disposal (Orders issued by AAR during the month as reported in column 3)