BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULINGS FOR THE STATE OF UTTARAKHAND, GOODS & SERVICE TAX, E-BLOCK, NEHRU COLONY, DEHRADUN- 248001

Present:
Shri S.H. Hasan (CGST Member)
Smt. Sowjanya (SGST Member)
The 07. day of Sept, 2018
Appeal No. GSTARA02/01/18-06-2018

1.	Name and Address of Appellant	Divisional Forest Officer, 5-Tilak Road, Dehradun
2.	Appeal No./Date	GSTARA02/01/18-06-2018
3.	Order No.	01 /2018-19 /07 - 09 - 2018
4.	Jurisdictional Officer	Range- v CGST Dehradun div/ State Sector-2 Dehradun Range
5.	Date of Personal hearing	08-08-2018
6.	Concerned Officer	Smt Preeti Manral, Deputy Commissioner, Tax Review, State Tax, Dehradun.
7.	Appellant Represented by	Rajesh Gupta, F.C.A, LLB (Authorised Rep.)
8.	Date of Reg. of Appeal	18-06-2018

ORDER

BRIEF FACTS OF THE CASE

1. In the instant case, an application under Sub-Section (1) of Section 97 of the CGST Act and the rules made thereunder, was filed by Regional Forest Officer (Forest Division, Dehradun) seeking an advance ruling on the question whether GST is leviable on the "Marg Sudharan Shulk" and "AbhivahanShulk" said to be charged by Forest Division Dehradun from the non government, private and commercial vehicles engaged in mining work in lieu of use of forest road. The said mining is being undertaken at "Saung" and "Jakhan Rivers" falling under the jurisdiction of Forest Division Dehradun under the supervision of "Van Vikas Nigam" after getting necessary approval from Environment Ministry, Government of India.

1.2. After having gone through the merits of the applicability of **GST on "Marg Sudharan Shulk",** which was being charged and collected by applicant for the maintenance of forest road, from non government, private and commercial vehicles engaged in mining work in lieu of use of forest road, the Advance Ruling Authority while holding that Under GST, "the services by way of access to a road or a bridge on payment of toll charges" were included in the list of exempted services, ruled that no GST was leviable on 'Marg Sudharan Shulk'.

1.3. **GST on "AbhivahanShulk"**: The Advance ruling authority found that the said "Abhivahan Shulk" is charged and collected by applicant in respect of forest produce carried out by a person. Ongoing through "The Uttrakhand Transit of Timber and Other Forest Produce Rules 2012", the authority observed that a person who desires to obtain forest produce is required to be registered with the forest department after paying applicable fee and the said "Abhivahan Shulk" is charged on the basis of quantum and quality of forest produce and the said forest produce must be accompanied with a transit pass issued by forest authorities in this regard. It was further observed that charges for carrying forest produce through road or water are different and determined according to quality and quantity. Therefore, said "Abhivahan Shulk" cannot be termed as toll tax and rather is a form of consideration received by the applicant in lieu of services provided to the person for carrying forest produce. Under Section 2(102) of GST Act, services means anything other than goods..... and all services but for list of exempted services as provided under Chapter 99 of GST Tariff, 2017 are liable for GST. Since the services provided by the applicant did not find mention in the list of exempted services, therefore the applicant was liable to pay GST @ 18% on the said **"Abhivahan Shulk"** under Service Code 9997 and was to be treated as "**other services**".

CASE FOR THE PARTY

Aggrieved by the said order passed by the Authority for Advance Ruling vide **Order No.01/2018-19 dated 20.04.2018**, the party vide the instant **Appeal dated 25.05.2018 (admitted on 18.06.2018)** have defended their stance of the non-leviability of GST @18% on **"Abhivahan Shulk"**, on the grounds as under:

1. That the only issue to be decided in present appeal is that "whether Abhivahan Shulk (Transit Fee) collected by the appellant (A Govt. of Uttarakhand Department and one of the limbs

819/X-2-2012-21(13)/2011 dated 18.05.2012 shall be exigible to GST under SAC 9997 as Other Services or not"?

2. That first of all the appellant would like to place that Abhivahan Shulk is collected by the appellant in terms of **THE UTTARAKHAND TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES'2012 as notified by Govt. of Uttarakhand vide notification no. 819/X-2-2012-21(13)/2011 dated 18.05.2012.**That the said Rules have been notified under Section 41, 42, 45, 51, 52 and 76 of Indian Forest Act'1927.

3. That Section 41 of the Indian Forest Act'1927 deals with "Power to make rules to regulate transit of forest produce" and clause (b) of subsection (2) of the said section prescribes that State Govt. may "prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass; further clause (c) prescribes that State Govt. may "provide for the issue, production and return of such passes and for the payment of fees therefore".

4. That **THE UTTARAKHAND TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES'2012, have been formulated to implement the provisions of Indian Forest Act'1927 and** Chapter II of the said Rules deal with "Transit of Timber and other Forest Produce by Land" and Rule 3 which pertains to "Regulation of Transit of Forest Produce by Means of Permit", provides that "No forest produce shall be moved into, or from, or within the State of Uttarakhand except as hereinafter provided, without a transit pass in the form Schedule "A" to these rules……".Further Rule 5 which deals with "Fee Payable for Different classes of Passes" prescribes the system of issuance of passes and fee payable for the same.

5. Thus, in terms of the above, it stands well established that the Abhivahan Shulk (Transit Fee) is charged under Authority of Law and not for provision of any service.

6. That for determination that a particular sum received is exigible to GST or not, first of all the definition of Service needs to be considered. The same as per Section 2(102) stands as :

"*services means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.*" There is nothing in the definition which stipulates that even Govt. Fee collected under a specific statue shall also be covered in the definition of service.

7. That under the provisions of GST, Supply is the critical event for Levy and Collection of Tax. The relevant Section 7 – Pertaining to Scope of Supply reads as under:

"7. (*1*) For the purposes of this Act, the expression "supply" includes—

(*a*) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(*b*) import of services for a consideration whether or not in the course or furtherance of business;

(*c*) the activities specified in Schedule I, made or agreed to be made without a consideration; and

`(*d*) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(*2*) Notwithstanding anything contained in sub-section (*1*)—

(*a*) activities or transactions specified in Schedule III; or

(*b*) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of theCouncil,shall be treated neither as a supply of goods nor a supply of services.

(*3*) Subject to the provisions of sub-sections (*1*) and (*2*), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

That Clause (a) of Subsection (1) of Section 7 covers only such supply of services which are made by a person in the course or furtherance of business, whereas the appellant is not charging Abhivahan Shulk in furtherance of business, instead the same is charged under the provisions of a Statute and Authority of State Govt that too without any provision of any kind of service instead to regulate the transit of forest produce. That Clause (b) of Subsection (1) of Section 7 deals with import of services therefore the same is not applicable. Further the relevant schedules I, II & III also nowhere stipulate that any Govt. Fee collected under a specific statue shall also be covered in the definition of service.

8. That in terms of the submissions made, the Abhivahan Shulk (Transit Fee) is not exigible to GST and in case such fee is held to be exigible to GST, in such a scenario all Govt. Fees and Levies charged under their specific statues shall become exigible to GST, which is not the intention of legislature, therefore it was prayed that Abhivahan Shulk (Transit Fee) may not be considered exigible to GST.

That without prejudice to the submissions made hereinabove, it was further pleaded that if it was deemed that the Abhivahan Shulk (Transit Fee) charged by the appellant is for rendering service and is exigible to GST, the provisions of Notification No. 13/2017-CT(R) dated 28.06.2017 shall continue to apply and in terms of entry S.No. 5, GST, if any applicable, on the said Abhivahan Shulk (Transit Fee), shall be payable by the recipient of service under Reverse Charge and not appellant as held by the Authority for Advance Ruling by orders dated 20.04.2018, since the appellant is Govt. of Uttarakhand Department and as such is one limb of the State Government. Further that the recipient of service shall be entitled to benefit of exemption as contained in Entry S.No. 9 of notification no. 12/2017 CT(R) dated 28.06.2017

DETAILS OF PERSONAL HEARING

An opportunity for personal hearing was granted to the appellant and the same was attended by Shri Rajesh Gupta, the Authorised Representative for the appellant on 08.08.2018. During the course of the personal hearing the Authorised Representative reiterated the points covered in the grounds of appeal filed with the Appellate Authority vide Appeal No. GSTARA02/01/18.06.2018. Further, in order to understand the whole issue in minutest details, the Authorised Representative was asked some specific questions in a questionnaire form, the answers of which were submitted on 10.08.2018. The details of the submissions made in the Question Answer form are as under:-

Q1. Please provide the authority for the collection of the Abhivahan Shulk (Transit Fee).

Ans1. The said Abhivahan Shulk is collected under the authority granted in terms of THE UTTARAKHAND TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES'2012, which have been formulated to implement the provisions of Indian Forest Act'1927. A copy of the same has already been submitted during the course of personal hearing.

Q2. Since when this fee is collected and what is the point of collection? What is the machinery for collection?

Ans2. This fee is collected since 1978 in terms of earlier UP Transit of Timber and Other Forest Produce Rules'1978. The fee is collected at various check posts established by the appellant and the said fee is collected by the officers of the appellant.

Q3. Is there any exemption from fee? If so, please provide the details and reason for exemption.

Ans3. That exemption from fee is granted in terms of Rule 3 ofTHE UTTARAKHAND TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES'2012 in the following circumstances:

a. Transfer of any forest produce which is being removed for bona fide consumption by any person in exercise of privilege granted in this behalf by the Government or of a right recognized under this Act, within the limits of a village in which it is produced

b. Transfer of forest produce by contractor's agency from the forests managed by the Forest Department, in which case the movement shall be regulated by the relevant conditions of sale and terms of the corresponding agreement deed executed by the buyer

c. Further transfer of forest produce as may be exempted by the Government from the operation of these rules by notification in the official Gazette.

Q4. What is the rate and methodology of collection of this fee? Is there any prescribed tariff? If yes, copy may please be submitted.

Ans4. That the fee is payable in terms of Rule 5 of THE UTTARAKHAND TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES'2012.

A copy of the same has already been submitted during the course of personal hearing.

Q5. Under what accounting head is the fee deposited?

Ans5. The Fee is Deposited with State Govt. as Govt. Revenue under Code – 0406- 01- 800- 01- 03. A copy of sample challan is enclosed herewith as Annexure-1.

Q6. What is the reason for imposition of this fee? How is the gross collection used and by which authority?

Ans6. The fee is charged in terms of the authorities granted under the Indian Forest Act'1927, which has been enacted to "consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce". Further to ensure that no unwarranted forest produce is taken out.

The Gross Collection of Abhivahan Shulk is deposited with State Govt. as Govt. Revenue. A sample copy of challan is already enclosed as Annexure-1. Further the said collected sums are utilised by State Govt. the way Govt Revenue is utilised.

Q7. Is any annual target fixed for collection of this fee? If yes, copy of latest correspondence may please be submitted.

Ans7. No annual target is fixed.

Q8. Was any tax levied on this fee in pre-GST era, either by any State or Central Govt. Agency? Details please.

Ans8. No tax has been levied or paid on this Abhivahan Shulk since 1978.

Q9. Whether any punitive measures are prescribed in case of failure to deposit the fee?

Ans9. Yes, in terms of Rule 28 of THE UTTARAKHAND TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES'2012, which read as under:

(1) Whosoever contravenes any of the provisions of these rules shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 10000/- or with both

(2) In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence, the offender shall be liable to imprisonment for a term which may extend to 02 years or a fine which may extend to Rs. 50000/- but in no case less than Rs. 10000/- or with both.

Q10. Are the forest produce liable to seizure in case the Abhivahan Shulk is not paid? What is the fate of seized goods? Are they subsequently auctioned then is the Abhivahan Shulk recouped from the sales proceeds?

Ans10.Yes. That once the produce is detained, the case is placed before the Civil Court and once the orders are passed for seizure of the same, the said produce is auctioned for recovery of fine.

Q11. Sample copy of receipt / challan for this fee.

Ans11.Sample Copy of receipts and Challan towards deposition of the same towards Govt. Revenue are Enclosed herewith as Annexure-2

Q12. Where the fee is deposited whether with treasury or any department?

Ans12.The Gross Collection of Abhivahan Shulk is deposited with State Govt. as Govt. Revenue. A sample copy of challan is already enclosed as Annexure-1.

DISCUSSIONS & FINDINGS

We have carefully gone through the order of the Authority on Advance Ruling dated 20.04.2018, appeal submissions, oral as well as written, by the appellant and relevant records.

The main issues of contention, on taxability of Abhivahan Shulk, raised by the appellant against the Advance Ruling order inter alia, are-

(i) that there is nothing in the definition which stipulates that even Govt. Fee collected under a specific statue shall also be covered in the definition of service.

(ii) that Govt fee is not covered under scope of service as detailed in Section 7 (a) & (b).

(iii) that in case such fee is held exigible to GST then in such a scenario all Govt. Fees and levies charged under specific statutes shall become exigible to GST, which is not the intention of the legislature;

(iv) that the provisions of Notification No. 13/2017-CT(R) dated 28.06.2017 shall continue to apply and the same shall be payable by the recipient of service under Reverse Charge mechanism. Further the recipient of service shall also be entitled to benefit of exemption as contained in Entry S.No. 9 of notification no. 12/2017 CT(R) dated 28.06.2017

Before going into the specific details of the issue, the nature of the levy needs to be understood. Hon'ble Supreme Court, in the landmark judgement in the case of **State of Rajasthan vs. Sajjan Lal, AIR 1975 (Supreme Court) page 706, (Para 40 and 41),** laid down the law regarding the difference between a tax and fee. It was held (relevant part quoted herein) - *"Section 17(3) cannot be held to be invalid and ultra vires to the power, of the State Legislature. The mere fact that the amount was paid into the consolidated fund is by itself not sufficient to hold that the levy under s. 17(3) of the Act is a tax. It was held in the Commissioner of H.R. E.Madras v. Sri Lakshmindra Tirtha Swamiar of Shri Shirur Mutt that the essence of taxation is compulsion and imposition made for public purpose without reference to any special benefit to be conferred on the payer of the tax, that is to say, that the levy of tax is for the purposes of general revenue which, when collected, forms part of the public revenues of the State. A fee on the other hand is payment for a special benefit or privilege which the individual receives. It is regarded as a sort of return or consideration for services rendered and should be correlated to the expenses incurred by Government in rendering the services. In the Secretary, Government of Madras, Home Department v. Zenith Lamp & Electrical Ltd., it was reiterated that the fact that the collections went to the Consolidated Fund was not in itself conclusive though not much stress could be laid on this point because Art. 266 requires that all revenues raised by the State shall form part of the Consolidated Fund".*

The principles were reiterated in **Kishan Lal vs. State of Haryana (1993) Supplement 4 CC page 461**- *It is trite to reiterate the law laid down by this Court of the distinction between ıe tax and the fee and its demarcating line visa-vis the power of the legislation to make law for mposition of fee in that behalf. Suffice to reiterate the ratio laid in Sreenivasa General Traders ınd Ors. v. State of A.P. and Ors. that the traditional view that there must be actual quid pro quo for a fee has undergone a sea change. The distinction between a tax and a fee lies primarily in the fact that a tax is levied as part of a common burden, while a fee is for payment of a specific benefit or privilege although the special advantage is secondary to the primary purpose of regulation in public interest, if the element of revenue for general purpose of the State predominates the levy becomes a tax. In regard to fee, there is, and must always be, correlation between the fee collected and the service intended to be rendered. In determining whether a levy is a fee, the true test must be whether it's primary and essential purpose is to render specific services to a specified area or class; it may be of no consequence that the State may ultimately and indirectly be benefited by it. The power of any legislature to levy a fee is conditioned by the fact that it must be "by and large" a quid pro quo for the services rendered. However, co-relationship between the levy and the services rendered/expected is one of general character and not of mathematical exactitude. All that is necessary is that there should be a "reasonable relationship" between the levy of the fee and the services rendered. There is no generic difference between a tax and a fee. Both are compulsory exactions of money by public authorities. Compulsion lies in the fact that payment is enforceable by law against a person in spite of his unwillingness or want of consent. A levy in the nature of a fee does not cease to be of that character merely because there is an element of compulsion or coerciveness present in it, nor is it a postulate of a fee that it must have direct relation to the actual service rendered by the authority to each individual nor that each should obtain the benefit of the service.*

Further, in the case of ***P. Kannadsan etc. vs. State of Tamilnadu & other etc. J.T.*** **1996 (7) SC 16.** *It has been observed that : "Even in the matter of fees, it is not necessary that element of quid pro quo should be established in each and every case, for it is well settled that fees can be both regulatory and compensatory and that in the case of regulatory fees, the element of quid pro quo is totally irrelevant."*

Thus, from the above pronouncements, it is crystal clear that a fee is charged in lieu of some service granted to a particular class of persons from whom it is being charged. Such fees are to offset the expenses (partly or fully) incurred in rendering the said service and co-relation between the two with exact mathematical precision is not important and in some instances such as license fee, which are regulatory in nature, the *quid pro quo* also is not essential. The Abhivahan Shulk(transit fee) is different from the Marg Sudharan Shulk (both of which are collected by the forest department under statute of State Government) in as much as the latter is collected for the upkeep and maintenance of roads within the forest area and the same is collected from all the vehicles, whether loaded or empty. Thus the Marg Sudharan Shulk is used for the benefit of public in general who may use the roads of the forest area and not only to a particular class of people who are paying the said fee. The rates of Abhivahan Shulk, on the other hand, are fixed on the quantity of forest produce being transported. So, a vehicle entering a forest area will have to pay the Marg Sudharan Shulk even if it comes out empty. But the same empty vehicle will not be required to pay any Abhivahan Shulk, if it is coming out of the forest area without any forest produce. Thus, this fee is directly related to the quality and quantity of

the forest produce. The Uttarakhand Forest Department is incurring expenses in maintaining the administrative machinery for collection of the Abhivahan Shulk and they are required, by the Uttarakhand Transit of Timber and Other Forest Produce Rules 2012, to construct and maintain depots. All these expenses appear to be met up from the collection in the form of Abhivahan Shulk and the fact that this fee is deposited in the consolidated general head does not in any way change its character of being a fee. In return for this fee, the forest department is providing the service of maintaining and regulating the forest produce and ensuring the continued availability of the forest produce and its safe transit through the jurisdiction of forest department. These services are restricted only to the persons who are carrying the forest produce and have paid the Abhivahan Shulk. Thus, only a particular class of people, who are registered with the forest department and paying the said fee, in terms of THE UTTARAKHAND TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES' 2012, enjoy these services.

In view of the above findings, Abhivahan Shulk fulfills all the criteria, as laid down by different pronouncements of Hon'ble Supreme Court, which are required to be established for a government levy, for it to be termed as 'fee'. The very nature of it being a fee ensures that a quid pro quo has to be there and therefore rendering of some form of service comes in built, which is also established as discussed above. Thus, this shulk collected against the services rendered, is liable to be taxed under the provisions of Goods and Service Tax Acts, unless otherwise exempted.

Now, we come to the specifics of the appeal. Definition of services as provided in Section 2(102) of the CGST Act 2017, reads as *"(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;". Thus,* by using the word "anything" the legislation becomes all encompassing with the only exceptions contained in the definition itself. It is not possible to include everything in a definition. So, merely the fact that the term "Govt. fee" is not mentioned in the definition of services does not exclude it. The important factor is whether it falls under '*other than goods, money and securities'* and the answer has to be obviously in negative. So, government fees undoubtedly are covered by the definition of services.

Further, the appellant have taken the plea that Abhivahan Shulk is not being charged for furtherance of business and hence it does not fall under the ambit of supply as defined in clause (a) or (b) of Section 7 sub-section (1) of the CGST Act 2017. However, we find that the remaining clauses and sub-sections of Section 7 ibid are more relevant and for clarity's sake the full text is being reproduced here-

7. (1) For the purposes of this Act, the expression "supply" includes—
(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
(b) import of services for a consideration whether or not in the course or furtherance of business;
(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),—
(a) activities or transactions specified in Schedule III; or
(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.
(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or
(b) a supply of services and not as a supply of goods.

A plain reading of the above statute clearly shows that sub-clause (2) is the exclusion clause and only goods or service falling under the Schedule III (clause a) or being included in any exception notification (clause b), will not be treated as supply of goods or supply of services. Everything and anything other than those covered by sub clause (2) (a) & (b) are to be treated as supply of goods or supply of services as covered by Schedule I or Schedule II in terms of sub clause (1)(c) and (1)(d) respectively. Government fees are not specified in Schedule III of Section 7 and Abhivahan Shulk is also not covered by any notification for exception in terms of Section 7(2)(b) ibid. Hence, there remains no ambiguity about the taxability of Abhivahan Shulk.

Now coming to the issue of classification and tax rate, we find that only such activities and transactions *undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities,* ***as may be notified*** *by the Government on the recommendations of the Council* are not supply. Abhivahan Shulk is not covered under Sl. No. 4 of the notification No. 12/2017-CT (R) dated 28.06.2017 since the entry applies to functions entrusted to Municipalities. Similarly serial entry no. 5 of the said notification relates to functions entrusted to Panchayat. On the other hand, Serial no. 6 of the said notification states that Services by the Central Government, State Government, Union territory or local authority excluding the following services — (a)..... (b)..... (c)..... (d) any service, other than services covered under entries (a) to (c) above, provided to business entities are to be taxed at 'NIL' rates. Abhivahan Shulk does not fall under exclusion clauses (a) to (c) and hence they are to be treated as any service provided to a business entity, as per clause (d) and accordingly the fee does not fall under the category of 'NIL' rate. The Heading number 9997 at entry serial no. 35 of Notification no. 11/2017-Central Tax (Rate) dated 28.06.2017 reads - ***Other services*** *(washing, cleaning and dyeing services; beauty and physical well-being services;* ***and other miscellaneous services including services nowhere else classified)*** with the CGST rate of 9% [The corresponding entry in notification no. 08/2017-Integrated Tax (Rates) dated 28.06.2017 having IGST rate of 18%]. This entry serial is the residuary entry which covers all other services which are not elsewhere specified. As discussed above, the Abhivahan Shulk cannot be covered under notification relating to "NIL" rate nor does it correspond to any entry for services that are taxed at 24%. Hence, this fee has to be covered under the residuary Heading 9997 for other services with the tax rate of CGST@ 9%, SGST@9% and IGST @ 18%.

As to the alternate plea of the Appellant regarding payment of GST by the recipients, on reverse charge basis, we find that this plea did not form a part of the original application that was filed before the AAR and the issue was not examined by the original Authority on Advance

Ruling and accordingly no orders to this effect was passed. Advance Ruling was sought only to decide the exigibility of Abhivahan Shulk. The Reverse Charge mechanism is governed by certain laid down conditions and criteria. In absence of specific details, it is impossible to arrive at a reasoned decision. Hence we cannot consider the issue at the appellate stage without it forming a part of the order in original. However, the rules and procedures regarding reverse charge mechanism are unambiguously laid down and in the era of self assessment procedure, it is for the assessee to ascertain whether he fulfils the terms and conditions governing payment of GST on reverse charge.

In view of the above findings we dismiss the appeal and uphold the decision of the Authority on Advance Ruling for the State of Uttarakhand.

(S.H. HASAN)
CGST MEMBER

(SOWANYA)
SGST MEMBER

I am directed to transmit herewith a certified copy of the order passed by the Appellate Authority for Advance Ruling for the State of Uttarakhand, Goods & Service Tax under Section 101(1) of the CGST/SGST Act 2017.

Registrar
AAAR Uttarakhand

(हेमा पचोली)
रजिस्ट्रार
उत्तराखण्ड अग्रिम विनिर्णय
अपीलीय प्राधिकारी

Copy To- 4525/11-09-2018

1. The Chief Commissioner, CGST, Meerut Zone, Meerut
2. The Commissioner, CGST, Commissionerate Dehradun
3. The Commissioner, SGST, Uttarakhand
4. Members of Advance Ruling Authority
5. Jurisdictional Officers , Dehradun
6. Appellant Divisional Forest Officer, 5-Tilak Road, Dehradun
7. Concerned Officer.
8. Guard File