



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Sri. K.Ravi Sankar, Commissioner of State Tax (Member)
2. Sri. RV Pradhamesh Bhanu, Joint Commissioner of Central Tax (Member)

AAR No.06/AP/GST/2023 dated: 29.05.2023

1	Name and address of the applicant	M/s.Om Shree Maa Mangala Logistics Pvt. Ltd.
2	GSTIN	37AADCO1422E1ZW
3	Date of filing of Form GST ARA-01	16.11.2022
4	Personal Hearing	29.03.2023
5	Represented by	
6	Jurisdictional Authority - Central	Kakinada Port, Kakinada Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	e) Determination of the liability to pay tax on any goods or services or both g) Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Om Shree Maa Mangala Logistics Pvt. Ltd. (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

M/s Om Shree Maa Mangala Logistics Pvt. Ltd. (hereinafter referred to as "applicant") is engaged in the business of providing logistic services to M/s XYZ (foreign company), for arranging unloading, storage, loading and transportation of goods from various places within India up to the vessel at sea ports in India for export of such goods outside India. In addition to other transportation services, goods received from various Indian sellers at railway stations are also being transported through rail (by Indian Railways) up to Vessels at Indian Sea Ports which is arranged by M/s Om Shree Maa Mangala Logistics Pvt. Ltd.: Applicant is having GST registration number:37AADCO1422E1ZW.

4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

1. Rate of GST applicable on Invoices to be raised by M/s Om Shree Maa Mangala Logistics Pvt. Ltd to M/s XYZ (Foreign Company) on transportation of Goods through rail and treatment of GST ITC? .
2. Whether the lower rate of GST @ 5% is service specific or service provider specific (i.e. applicable only for transportation by Indian Railways or to any person for transportation through rail)?
3. If a lower rate @ 5% is not applicable, then can we claim such an amount from M/s XYZ (Foreign Company) as reimbursement without raising Invoices?
4. Can we raise separate invoice for only Service charges for arrangement of such services?

On verification of basic information of the applicant, it is observed that the applicant is under state jurisdiction i.e, Kakinada Port, Kakinada Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the State jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Applicant's Interpretation of Law:

The applicant submits that, various sellers hand over the goods to M/s Om Shree maa mangala logistics pvt. ltd at storage point of railway stations from where it has to be transported through railways. The goods received from different sellers are clubbed and arranged for transportation through rail by the applicant.(without container). The goods are unloaded into vessels at sea ports in India for export. Indian railway issues railway receipt (R.R) GST invoices and charge GST @ 5% to M/s Om Shree Maa Mangala Logistics Pvt.

The applicant further submits that, transportation services are being provided to M/s XYZ (foreign Company) and hence transportation charges from M/s XYZ (foreign Company) are claimed by raising invoices to M/s XYZ (foreign Company). As any agent charges / business support service charges for arrangement of such transportation is separately identifiable and invoice for such transaction can be raised separately.

6. Personal Hearing:

The proceedings of personal hearing were conducted on 29.03.2023, neither the applicant nor his authorized representative attended the personal hearing. Further, the applicant submitted through mail dt:28.03.2023 to decide the case based on the issues/provisions mentioned in the application but not enclosed any document even in mail.

7. Discussion and Findings:

We have examined the issues raised in the application in light of the facts and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for Advance Ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

The issue inward in the instant case is to decide

- i) Rate of GST applicable on Invoices to be raised by M/s Om Shree Maa Mangala Logistics Pvt. Ltd to M/s XYZ (Foreign Company) on transportation of Goods through rail and treatment of GST ITC?
- ii) Whether the lower rate of GST @ 5% is service specific or service provider specific (i.e. applicable only for transportation by Indian Railways or to any person for transportation through rail)?
- iii) If a lower rate @ 5% is not applicable, then can we claim such an amount from M/s XYZ (Foreign Company) as reimbursement without raising Invoices?
- iv) Can we raise separate invoice for only for Service charges for arrangement of such services?

It is pertinent to note that, the applicant has not submitted any relevant documents, including invoice, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment of vouchers, e-waybill and agreement copies etc., The issue on which advance ruling is sought by the applicant appears to be hypothetical in nature in the absence of relevant documents. Further, the applicant has not appeared for personal hearing and also declined another opportunity of personal hearing.

In view of the above discussion we find that the applicant neither submitted sufficient documents nor showed any inclination to defend his case. Therefore we are not inclined to pronounce the ruling in the absence of proper documents. We are of the view that the ruling can be pronounced on the basis of proper documents in support of questions sought and not on the basis of assumption and hypothetical situation hence the application is not maintainable in view of the above discussion.

We, here by pass the ruling

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

The application is not maintainable in view of the above discussion.

Sd/- K.Ravi Sankar
Member

Sd/-RV Pradhamesh Bhanu
Member

//t.c.f.b.o//


Deputy Commissioner (ST)
Registrar
Authority for Advance Ruling
O/o. Chief Commissioner (State Tax)
Andhra Pradesh, Vijayawada.

To

M/s Om Shree Maa Mangala Logistics Pvt. Ltd, D. NO-16-23B-5, Pallamraju nagar, Road No-3, Kakinada, East Godavari, Andhra Pradesh- 533003 **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Kakinada Port Circle, Kakinada Division **(By Registered Post)**
2. The Superintendent, Central Tax, CGST, Kakinada Port Range, Kakinada Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

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