

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



**ADVANCE RULING NO. GUJ/GAAR/R/2025/54
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2025/AR/16)**

Date: 24 /11/2025

Name and address of the applicant	:	M/s. Hasti Petro Chemical & Shipping Limited Near Railway CRO, At Nidhrad, Sanand-Kadi Road, Sanand, Gujarat.
GSTIN of the applicant	:	24AAACH7828N1Z8
Jurisdiction Office	:	Center Commissionerate- Ahmedabad North Division – III, Sanand Range -I
Date of application	:	07.05.2025
Clause(s) of Section 97(2) of CGST/GGST Act, 2017, under which the question(s) raised.	:	(e)
Date of Personal Hearing	:	16.10.2025
Present for the applicant	:	Shri Pradeep Jain, CA and Shri Arvind Swamy, Authorised Representative

Brief facts:

M/s. Hasti Petro Chemical & Shipping Limited, Near Railway CRO, At Nidhrad, Sanand- Kadi Road, Sanand, Gujarat [for short – ‘applicant’] is registered under GST and their GSTIN is 24AAACH7828N1Z8.

2. The applicant has stated that they hold a Container Train Operator (CTO) License to operate rakes on the Indian Railway Network for the purpose of providing transportation of goods in containers by rail. In addition to transporting loaded containers, the Applicant also transports empty containers by rail to facilitate logistics operations. Currently, the applicant charges GST at 12% (6% CGST + 6% SGST) for transportation of both loaded and empty containers, relying on Entry No. 9(iv) of Notification No. 11/2017-Central Tax (Rate) dated 26.06.2017, which prescribes the following service description:

“Transport of goods in containers by rail by any person other than Indian Railways.”



However, certain customers contend that the transportation of empty containers should fall under Entry No. 9(i) of the same Notification, which prescribes a GST rate of 5% (2.5% CGST + 2.5% SGST) for:

"Transport of goods by rail (other than services specified at item No. (iv))."

3. The applicant has therefore sought a ruling on the following question: -

- i. *What is the correct GST rate applicable for the transportation of empty containers by rail?*
- ii. *What are the legal and tax implications if GST is charged at 5% on the transportation of empty containers instead of 12%?*
- iii. *Under what conditions would Entry No. 9(i) (transport of goods by rail, other than services specified at item No. 9(iv)) apply to the transportation of empty containers?*

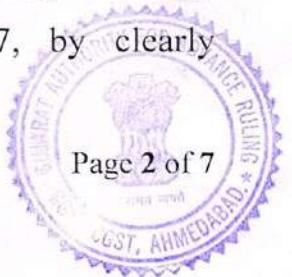
4. The applicant has submitted their grounds for seeking the advance ruling as under: -

(i) Prior to 01.09.2009, services provided by the Indian Railways were not liable to service tax. However, an amendment was made in the definition of taxable service and service tax was imposed on Indian Railways also.

(ii) From this date, the services of transportation of goods by rail were categorised into two heads-transportation of goods by rail by Indian Railways & Transportation of goods by rail by any other person. The exemption and rate of tax was also prescribed accordingly. As per Notification No. 26/2012-ST dtd. 20.06.2012, the abatement for transport of goods by rail was 70 % and that for transport of goods in containers by rail by any other person other than Indian Railways was 60%.

(iii) An analysis of the above entry clarifies that two different tax rates were applicable on the services of transportation of goods by rail and transportation of goods in containers by rail by any other person other than Indian railways even during the service tax regime.

(iv) Thus, the legislative intent was clear to keep the tax rate of transportation of goods by Indian railways on lower side while the same services provided by other persons on the higher side. It seems that the same concept has been carried forward to GST regime as reflected from the entry no. 9(i) and entry no. 9(iv) of Notification No. 11/2017-CT(R) dtd. 28.06.2017, by clearly



distinguishing the services of transportation of goods provided by Indian Railways and by any other person other than Indian Railways.

(v) On analysing the language of the relevant clauses of the said notification, Clause (iv) is applicable only if there is transportation of goods in containers. In other words, if there are no goods in containers, Clause (iv) will not apply.

(vi) Clause (i) of Entry no. 9 covers transportation of goods by rail in all cases except those covered in Clause (iv). This clause is wide enough to cover the cases where any types of goods are transported by rail. Thus, this entry at Clause (i) will apply if the empty containers are goods under the provisions of CGST Act.

(vii) Analysis of the definition of goods provided in Section 2(52) of the CGST Act clarifies that this definition is wide enough to cover all types of movable properties, except money and securities. Thus, containers clearly fall in the definition of goods and in view of the applicant, rate prescribed at clause (i) of Entry No. 9 of Notification No. 11/2017-CT(R) will apply.

(viii) As per the prevalent industry practices, different rates of tax are being charged by the different rail operators. For example, CONCOR is charging the rate of tax of 5% while some other operators are charging the tax at the rate of 12%. As different rates are charged by the different rail operators, there is confusion prevailing in the industry regarding the rate of tax on the transportation of empty cargo containers. Hence, the need for advance ruling.

5. Personal hearing was granted on 16.10.2025 wherein Shri Pradeep Jain, CA and Shri Arvind Swamy, Authorised Representative appeared on behalf of the applicant and reiterated the facts & grounds as stated in the application.

Discussion and findings

6. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same, except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

7. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made both oral and written during the course of personal hearing. We have also considered the issue involved,

the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

8. We find that the applicant is holding a Container Train Operator licence to run its rakes on the Indian Railway Network for providing transportation services of goods in containers by rail. The applicant is also transporting empty containers by rail to facilitate their logistic operations in addition to transporting loaded containers. The applicant wants to know the rate of tax leviable while transporting empty containers.

9. Notification No. 11/2017-CT(R) dtd. 28.06.2017, as amended deals with transportation of goods by rail. The said notification apart from these services also prescribes the rates for Transport of goods in a vessel, Service of GTA in relation to transportation of goods, Transportation of natural gas, petroleum crude, motor spirit, High Speed Diesel or aviation turbine fuel through pipeline, Multimodal transportation of goods where atleast two different modes of transport are used by a multimodal transporter and Transport of goods by ropeways. However, for the sake of brevity only the relevant entry relating to Transport of goods by rail is being reproduced, which is as under: -

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
9	Heading 9965 (Goods transport services)	(i) Transport of goods by rail (other than services specified at item no. (iv)).	2.5	Provided that credit of input tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
		(iv) Transport of goods in containers by rail by any person other than Indian Railways.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
				Or
			9	-
		(vii) Goods transport services other than (i), (ii), (iii), (iv), (v), (vi) and (via) above.	9	-



10. We find that the two contending entries are Clause (i) of Entry 9 and Clause (iv) of Entry 9, as they both deal with the Transport of goods by rail. While Clause (i) deals with transport of goods by rail in general, Clause (iv) deals with a specific service performed through rail and by specified category of persons i.e. the transport of goods in containers by rail by any person other than Indian Railways. Thus, if the goods are transported in containers by a person other than the Indian Railways, he would fall under Clause (iv). Thus, the conditions which are to be satisfied if a service is to fall in Clause (iv) is that: -

- (a) the transportation of goods should be through rail
- (b) the goods should be transported in containers
- (c) it should be transported by a person other than Indian Railways.

11. We find that there is no ambiguity when the applicant transports the goods in containers as they fulfil all the conditions of Clause (iv), supra. The only issue is when the empty containers are transported by the applicant, as there is no specific entry for such service. Further, in such cases, the intention is not to transport any goods in the container but the container itself, thus bringing it outside the scope of Clause (iv). We find that Clause (i) covers transport of goods by rail other than those services mentioned in Clause (iv). Thus, according to us, this is a general entry covering all transport of goods by rail except when goods are transported in containers by rail by any person other than Indian Railways. While it is trite law that a specific entry will prevail over a general entry, but if there is no specific entry for a certain service then it would be covered by the general entry. Since, there is no specific entry for transportation of empty containers, we feel that the proper entry would be Clause (i) of Sl. No. 9 of the Notification.

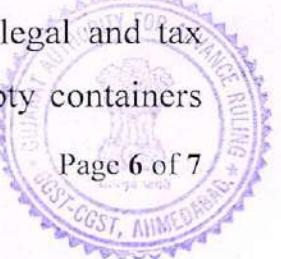
12. We find that as submitted by the applicant there is a scope of interpretation of these Clauses, as Clause (i) being for services provided by the Indian Railways and Clause (iv) for services provided by persons other than Indian Railways. However, we are not inclined to accept such an interpretation, as the wordings of the Clauses are very clear. When the wordings in the said Notification are clear, plain and unambiguous and only one meaning can be inferred, we are bound to give effect to the said meaning. Clause (iv) is only intended for goods transported in containers by persons other than Indian Railways. There is no scope for an intendment that it would also include the transportation of empty containers.



13. We also find that Clause (i) deals with transport of **goods** by rail, which brings us to the next question as to whether the empty containers can be considered as goods. As per Section 2(52) of the CGST Act, '*goods' means every kind of moveable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.*' We find that during the Service tax regime, CBIC vide Circular No. 96/07/2007-ST dtd. 23.08.2007, while clarifying the scope of storage and warehousing of empty containers as leviable to service tax under Storage and Warehousing services, had stated that empty containers are covered within the meaning of goods as defined in Section 65(50) of the Finance Act, 1994. As per Section 65(50), 'goods' has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930). We find that the definition of 'goods' under Section 2(7) of the Sale of Goods Act, 1930 (3 of 1930) is almost akin to the definition of goods in the CGST Act. This further fortifies the argument that the empty containers which are goods and transported by rail is covered vide Clause (i) of Sr No. 9 of Notification No. 11/2017-CT(R) dtd. 28.06.2017.

14. We would also like to deal with the residual Clause no. (vii) of Sr No. 9 of Notification No. 11/2017-CT(R) dtd. 28.06.2017, which deals Goods transport services other than (i), (ii), (iii), (iv), (v), (vi) and (via) of Sr. No. 9 of the said notification. As mentioned earlier in para 9 supra, the clauses (i), (ii), (iii), (iv), (v), (vi) and (via) deal with Transport of goods in a vessel, Service of GTA in relation to transportation of goods, Transportation of natural gas, petroleum crude, motor spirit, High Speed Diesel or aviation turbine fuel through pipeline, Multimodal transportation of goods where at least two different modes of transport are used by a multimodal transporter and Transport of goods by ropeways. Thus, we feel that this residual entry deals with those services other than the services provided using these modes i.e. Rail, Vessel, GTA, Pipeline, Ropeways or multimodal transport, and therefore, will not include transport of goods by rail.

15. Therefore, we answer the first question of the applicant that the correct GST rate applicable for the transportation of empty containers by rail is the rate provided in Clause (i) of Sr. No. 9 of Notification No. 11/2017-CT(R) dtd. 28.06.2017, which is 5%. We find that the second question of the applicant is the legal and tax implications if GST is charged at 5% on the transportation of empty containers



instead of 12%. Since, we have already held that the tax rate is 5%, the question is not answered.

16. We find that the third question of the applicant is that under what conditions would Entry No. 9(i) apply to the transportation of empty containers. We have already held that Entry No. 9(i) would also apply to the transportation of empty containers. Further, this Entry has a condition that the credit of input tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service. We find that though the other entries have two rates based on the availment of ITC or otherwise, there is no such condition as far as Entry No. 9(i) is concerned. Therefore, the applicant would have to mandatorily forego his ITC (as mentioned in Explanation -IV to the Notification) while paying GST @ 5% for the transportation of empty containers.

17. In view of the foregoing, we rule as under: -

RULING

Q.1 What is the correct GST rate applicable for the transportation of empty containers by rail?

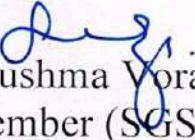
A.1 5%, as per Clause (i) of Sr. No. 9 of Notification No. 11/2017-CT(R) dtd. 28.06.2017.

Q.2 What are the legal and tax implications if GST is charged at 5% on the transportation of empty containers instead of 12%?

A.2 Not answered, for the reasons mentioned aforesaid.

Q.3 Under what conditions would Entry No. 9(i) (transport of goods by rail, other than services specified at item No. 9(iv)) apply to the transportation of empty containers?

A.3 The applicant will have to pay 5% GST and the credit of input tax charged on goods or services used in supplying the service is not to be taken.


(Sushma Vora)
Member (SGST)

Place: Ahmedabad
Date: 24.11.2025




(Vishal Malani)
Member (CGST)