


GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADMISSION ORDER NO. GUJ/GAAR/ADM/2020/116
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/29)

Date: 30.12.2020

Name and address of the applicant	:	M/s. Ashokkumar Khimjibhai Patel, Shop No.7 Ajanta Diamond Society, Ground Floor, A.K.road, Varachcha road, Surat.
GSTIN of the applicant	:	24BCEPP4593A1ZR
Date of application	:	01.05.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) Classification of any goods or services or both; (b) Applicability of a notification issued under the provisions of this Act;
Date of Personal Hearing	:	23.12.2020 (through online hearing)
Present for the applicant	:	Shri Viren Dhakecha, C.A.

BRIEF FACTS

The applicant M/s. Ashokkumar Khimjibhai Patel, Shop No.7 Ajanta Diamond Society, Ground Floor, A.K.road, Varachcha road, Surat has submitted that they are engaged in the trading of Zipper Roll, Zipper Roll with slider, Zip Fasteners, Zipper etc. The applicant has submitted that in the 28th Council Meeting, it was informed that the HSN Code 9607 is transferred from 18% to 12% but in the Notification No:18/2018-Central Tax(Rate) dated 26.07.2018, it has been mentioned in two categories : (i) HSN Code 9607 – Slide fasteners @12% GST. (ii) HSN Code 9607 2000 – Parts of Slide fasteners @ 18% GST. The applicant has stated that as per their view point, classification of their products may fall under HSN Code 9607 – Slide fastener @ 12% GST. They have also submitted photos of their products for clarification.

2. The applicant has further submitted that their products being Zipper Roll, Zipper Roll with slider, Zip Fasteners, Zipper etc., they have sought to know whether it is Slide fastener or parts of Slide fastener. The applicant has asked the following question seeking Advance Ruling on the same:

“We will start Trading of Zipper Roll, Zipper Roll with slider, Zip Fasteners, Zipper etc., so that we sought advance ruling on:

- 1. Classification of goods and applicable tax rate on that.*
- 2. Applicability of a notification issued under the provision of the Act.”*

DISCUSSION & FINDINGS:

3. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative Shri Viren Dhakecha, C.A. at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

4. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 similar provisions of the GGST Act.

5. On going through the application filed by the applicant, we find that although the said application has been filed in the prescribed format of FORM GST-ARA-01 required as per the provisions of Section 97(1) of the CGST Act, 2017, the fee paid along with their aforementioned application is only Rs.5,000/-. In this regard, we find it imperative to refer to Section 97(1) of the CGST Act, 2017 as well as Rule 104 of the CGST Rules, 2017 which read as under:

Section 97. (1) *An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

Rule 104. Form and manner of application to the Authority for Advance

Ruling. (1) *An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in **FORM GST ARA-01** and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.*

(2) *The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26.*

6. On going through the provisions of Section 97 of the CGST Act, 2017 and Rule 104 of the CGST Rules, 2017, we find that the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 (which is the prescribed format for the said application) and shall be accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the CGST Act, 2017. Similarly, as per Section 97 of the GGST Act, 2017 and Rule 104 of the GGST Rules, 2017, the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be

accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the GGST Act, 2017. On a combined reading of the provisions of the aforementioned Section 97 and Rule 104 of both the aforementioned Acts and Rules, we find that the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be accompanied by a fee of Ten thousand rupees (Five thousand rupees as per Rule 104 of the CGST Rules, 2017 + Five thousand rupees as per Rule 104 of the GGST Rules, 2017).

7. We, therefore, find that although the applicant has filed the application in the prescribed format of GST-ARA-01, they have not paid the required fees of Rs.10,000/- as required as per the provisions of aforementioned Sections and Rules. Therefore, the instant application is liable for rejection under Section 98(2) of the CGST Act, 2017 for not paying the total fees of Rs.10,000/- i.e Rs.5,000/- under each head CGST & GGST as required under the provisions of CGST Act and Rules and respective GGST Act & Rules.

8. In view of the facts mentioned above, we do not find it necessary to delve into the details or facts of the issue in hand since the applicant has failed to comply even with the statutory requirements of the provisions of the relevant sections and rules of the CGST Act, 2017/GGST Act, 2017 as well as the CGST Rules, 2017/GGST Rules, 2017 with regard to filing the application of Advance Ruling before the Advance Ruling Authority, thus rendering it an invalid application for Advance Ruling under Section 97(1) of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017.

9. In the light of the aforesaid circumstances, we rule as under:

R U L I N G

Instant application filed by M/s. Ashokkumar Khimjibhai Patel, Shop No.7 Ajanta Diamond Society, Ground Floor, A.K.road, Varachcha road, Surat is hereby rejected under Section 98(2) of the CGST/GGST Act, 2017 being non-maintainable in view of the above discussion.

(SANJAY SAXENA)
MEMBER

(MOHIT AGRAWAL)
MEMBER

Place: Ahmedabad

Date: 30.12.2020.