

**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/18/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/05)
Date: 30.06.2021

Name and address of the applicant	:	M/s. Ahmedraza Abdulwahid Munshi (Nadim Scrap) Upleta Road, Behind Radhika Marble Dhoraji, Rajkot-360410.
GSTIN of the applicant	:	24CBLPM2023D1Z5
Date of application	:	18.02.2021
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; (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 or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
Date of Personal Hearing	:	17.06.2021 (Through Online Hearing)
Present for the applicant	:	Shri Shabbir Motiwala, Consultant

M/s.Ahmedraza Abdulwahid Munshi (Nadim Scrap), hereinafter referred to as the applicant, has sought Advance Ruling on following Questions:

1. Can Composition Dealer purchase Scrap/Used vehicles from Unregistered Dealers? RCM on these purchases applicable or not?
2. Any RCM exemption limit amount for purchase of Scrap and Used vehicles from unregistered dealers?

2. Revenue's Submission:

The Commissionerate of CGST Rajkot submitted as follows :

- (1) Questions raised in the application are neither pending nor decided in any proceedings in the case of the applicant under any of the provisions of the CGST Act, 2017 by their office.
- (2) As per the provisions of Section 9(3) of the CGST Act, 2017, Notification No.04/2017-CT(R) dated 28-6-17 was issued for supply of goods, on

which tax shall be paid on reverse charge basis by the recipient. The said Notification was further amended vide Notification No.36/2017-CT(R) dated 13-10-17, wherein, for the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap, the registered person who is the recipient, is made liable to pay GST on reverse charge basis if the supplier happens to be Central Government, State Government, Union territory (or) a Local Authority.

- (3) As per the provisions of Section 9(4) of the CGST Act, 2017, Notification No.08/2017-Central Tax(Rate) dated 28-6-17 was issued vide which exemption was provided for supply of goods(or) service, upto Rs.5,000/- in a day, received by a registered person from a unregistered supplier. The said notification was amended vide Notification No.38/2017-Central Tax(Rate) vide which the exemption provided was extended upto 31-3-18.
- (4) Section 9(4) was subsequently amended and substituted vide CGST Amendment Act, 2018 dated 29-8-18 and covered specific class of registered persons and specific category of supply of goods and services. Notification No.07/2019-Central Tax(Rate) dated 29-3-19 was issued covering specific recipients and specific category of goods and services under reverse charge mechanism.
- (5) The comments/reply with respect to the questions asked by the applicant are as under:
 - (a) As regards the first question, the Composition Dealer can purchase scrap/used vehicles from the unregistered dealer. Further, if a registered person receives/purchases the scrap/used vehicle from the supplier that is Central Government, State Government, Union territory (or) local authority, then the recipient is liable to pay tax under reverse charge under Notification No.36/2017-Central Tax(Rate) dated 13-10-17. However, if the registered person receives/purchases the scrap/used vehicle from unregistered dealers, then the recipient is not liable to pay tax, as it is not covered under specific categories of goods/services mentioned in Notification No.07/2019-Central Tax(Rate) dated 29-3-19.
 - (b) As regards the second question, the recipient is not liable to pay GST under reverse charge with respect to purchase of goods viz. scrap and used vehicles from unregistered dealers and therefore exemption limit for such purchase does not arise.

3. Personal Hearing:

Shri Shabbir Motiwala, Consultant, appeared for the hearing on 17-06-21 (Video conferencing) and reiterated the contents of the application.

4. FINDINGS:

4.1 At the outset we would like to make it clear that the provisions of CGST Act and GGST Act are in pari materia 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 GGST Act.

4.2 We have carefully considered all the submissions made by the applicant. We draw our attention to relevant sections of CGST Act and Notifications issued in this regard. Vide Section 9(3) of CGST Act, Government may specify the categories of supply of goods or service or both on which the tax shall be paid on reverse charge mechanism by the recipient. In exercise of powers of section 9(3) of CGST Act, The Central Government specifies at The Sr no 6 to

Notification No.4/2017-Central Tax(Rate) dated 28-6-17,central tax shall be paid on reverse charge basis by the recipient as follows:

Sr.No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
06.	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	Any registered person

- Sr.No.06 above was inserted vide Notification No.36/2017-Central Tax(Rate) dated 13-10-17.

4.3. Vide Section 9(4) of the CGST Act, Government may specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both. Notification No.08/2017-Central Tax(Rate) dated 28-6-17 exempts intra-State supplies of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the central tax leviable thereon under sub-section (4) of section 9 of the CGST Act, 2017 (12 of 2017) *provided that the said exemption shall not be applicable where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the suppliers, who is or are not registered, exceeds five thousand rupees in a day.* The aforementioned notification has been amended vide Notification No.38/2017-Central Tax(Rate) dated 13-10-17 vide which the proviso to the Notification (mentioned in para above) has been omitted. Further, Notification No.7/2019-Central Tax(Rate) dated 29-3-19 notifies that the specified registered persons shall, in respect of supply of goods or services or both, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both. However, subject goods are not notified vide said Notification 7/2019-CT(R).

5. Based on the Notifications issued vide section 9(3) and the section 9(4) of CGST Act, as on date, we issue the Ruling:

RULING

1. Composition Dealer purchasing Scrap/Used vehicles from the following Suppliers, namely: *Central Government, State Government, Union territory or a local authority* are liable to pay tax on RCM basis.
2. There is no RCM tax liability for purchase of subject goods from unregistered dealers.

(SANJAY SAXENA)

(ARUN RICHARD)

MEMBER (S)

(MEMBER (C))

Place: Ahmedabad

Date: 30.06.2021.