

**AUTHORITY FOR ADVANCE RULING – CHHATTISGARH**  
**3rd & 4th Floor, Vanijyikar GST Bhawan, North Block Sector-19,**  
**Atal Nagar, District-Raipur (C.G.) 492002**  
**Email ID – ast.gar.cg.gov.in**

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING**  
**U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017**

**Members Present are**

Smt. Sonal K. Mishra  
Joint Commissioner  
O/o Commissioner, State Tax  
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,  
Additional Commissioner,  
O/o Principal Commissioner,  
CGST & Central Excise, Raipur (C.G)

**Subject :-** Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 sought by M/s ParsaKente Collieries Limited, Ground Floor Pump Kharisa, Ambikapur, Surguja, Chhattisgarh, the applicant, a registered Service provider, GSTIN- 22AAECP5581E1ZL, seeking advance ruling as to Whether the benefit of NIL compensation cess would be available [as stipulated under Sr. No.41Aof Notification No. 1/2017-CC(Rate) as amended], if the supplier has discharged compensation cess on the entire quantity of raw coal, albeit at the stage of supply of washed coal and coal rejects respectively?

**Read :-** Application dated 03/09/2021 from M/s ParsaKente Collieries Limited, Ground Floor Pump Kharisa, Ambikapur, Surguja, Chhattisgarh GSTIN- 22AAECP5581E1ZL.

**PROCEEDINGS**

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

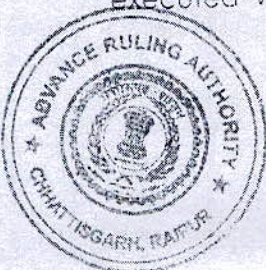
No.STC/AAR/08/2021

Raipur Dated .17/12/2021

M/s ParsaKente Collieries Limited, Ground Floor Pump Kharisa, Ambikapur, Surguja [hereinafter also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling as to Whether the benefit of NIL compensation cess would be available [as stipulated under Sr. No.41Aof Notification No. 1/2017-CC(Rate) as amended], if the supplier has discharged compensation cess on the entire quantity of raw coal, albeit at the stage of supply of washed coal and coal rejects respectively?

**2. Facts of the case:-**

2.1. The Applicant is a Mine Development Operator (MDO) engaged in rendering Mining Services under a Coal Mining and Development Agreement (CMDA for short) executed with Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUNL), which has



*[Signature]*



been allotted a coal block by the Central Government. Government of India had allotted Coal Blocks (ParsaKente) in the State of Chhattisgarh to Rajasthan Rajya Vidyut Utpadan Nigam Limited ("RVUNL") on 19<sup>th</sup>/25<sup>th</sup> June, 2007 (the Coal Blocks).

2.2. Applicant has further informed that as a part of the activities undertaken by the Applicant under the CMDA, it operates a coal washery for washing the raw coal i.e. coal as extracted from the mine.

2.3. In terms of clause 3.4 of the CMDA, the coal rejects arising after washing of coal are the property of the Applicant.

2.4. The Applicant, as a part of its contractual obligations, deposits in the Electronic Cash Ledger of RVUNL, the Compensation Cess attributable to the entire quantity of raw coal. RVUNL debits the applicable Compensation cess in its Electronic Cash ledger at the time of supply of washed coal from RVUNL Chhattisgarh to RVUNL Rajasthan. It also debits applicable Compensation Cess in its Electronic Cash ledger at the time of supplying the coal rejects to the Applicant. A flow chart outlining the stage at which Compensation Cess is discharged on the supply of washed coal and coal rejects was furnished by the applicant.

2.5. The sum total of the Compensation Cess paid by RVUNL on the quantity of washed coal and the quantity of coal rejects is equal to the Compensation Cess payable on the entire quantity of raw coal. In other words, the quantity of washed coal and reject coal form the sum total of the quantity of raw coal. This position is evident from the returns filed by RVUNL with the Coal Controller. The applicant also enclosed a copy of returns filed by RVUNL with the Coal Controller for the month of Aug 2021 for the coal block in question. With effect from 26.07.2018, NIL Compensation Cess is payable on supply of reject coal in terms of Entry No. 41A of Notification No. 1/2017-Compensation Cess (Rate). The relevant entry reads as under:

Sr.	Chapter / Heading / Sub- heading / Tariff item	Description of Goods	Rate of goods and services tax compensation cess
41A	27	Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has not been availed by any person.	NIL



*[Handwritten signature]*



### 3. Contentions of the applicant:-

3.1. The Applicant submitted that vide Final Order dated 25.05.2021 in Application No. STC/AAR/04/2021, this authority has, in the Applicant's own case, held that since the Applicant is a coal washery, the coal rejects supplied by it will attract NIL rate of Compensation Cess, when due Compensation Cess on the total quantity of the raw coal raised/mined stands discharged as also when no input tax credit of the Compensation Cess so paid is availed by any person.

3.2. The Applicant submitted that the aforesaid finding of this authority had been arrived at after taking cognizance of the fact that coal rejects arise from raw coal and that RVUNL was discharging Compensation Cess at the time of supplying the washed coal and the reject coal, the sum total of which is equal to the entire quantity of raw coal mined. The relevant observations in the said order in this regard are as under -

".....before the introduction of the GST regime, it was agreed by RVUNL that the entire amount of excise duty and clean energy cess leviable on coal and which was RVUNL's liability, would be deposited by the Applicant upfront in the cash ledger of RVUNL, on the entire quantity of raw coal (i.e. the quantity of coal mined by the Applicant before subjecting it to any process of crushing and/or washing).....Applicant's further contention is that this practice has continued even after the introduction of the GST regime wherein the Applicant deposits upfront in the electronic cash ledger of RVUNL Chhattisgarh, the Compensation Cess on the entire quantity of raw coal. The Applicant has further informed that the Compensation Cess deposited upfront in the electronic cash ledger is debited by RVUNL Chhattisgarh against the quantity of washed coal supplied by it to its thermal power stations at Rajasthan and that RVUNL Chhattisgarh also debits Compensation Cess deposited in its electronic cash ledger against the quantity of reject coal at the time of the same being supplied to the Applicant.....the entire quantum of Compensation Cess deposited upfront on the quantum of raw coal is appropriated against the Compensation cess paid against the quantum of washed coal and reject coal. The Applicant, on a back to back basis has subcontracted the work of mining and washing of coal to AEL, the mining contractor and AEL has set up a coal washery close to the mine pit head and upon mining of the raw coal, washes the same.

5.14 .....What is important is that the supplier of coal, which is RVUNL in the present case, has declared that they are paying appropriate tax and cess on the total quantity of the coal raised/mined, through the mining services received by it from the said mining contractor."





3.3. The Applicant submitted that this application has been filed only because the earlier order did not explicitly state that the stipulation in Entry at Sr. No. 41-A would stand satisfied as long as Compensation cess on the entire quantity of raw coal was discharged at the stage of supply of washed and reject coal by RVUNL, though such an interpretation is evident from a holistic reading of the order 25.05.2021.

3.4. The Applicant further submitted that in terms of Section 8 of the GST Compensation to States Act 2017, cess is leviable only upon intra/inter state supplies of goods and services, as provided for in Section 9 of the CGST Act and Section 5 of the IGST Act. As RVUNL does not supply raw coal as such, but only after the same has been subjected to washing, the stage at which Compensation Cess is leviable is only at the time of supply of washed coal and coal rejects, which totals to the entire quantity of raw coal.

3.5. The Applicant accordingly prays that the Authority may answer the question posed before it by ruling that the Applicant being a coal washery is entitled to the benefit of NIL rate of Compensation Cess in terms of Entry 41A of Notification No. 1/2017-CC(Rate), as amended, on coal rejects supplied by it, if such coal rejects arise from raw coal, on which appropriate Compensation Cess has been paid by RVUNL, at the stage of supply of washed coal and coal rejects respectively (totaling to the entire quantity of raw coal) and no ITC thereof has been availed by any person.

#### 4. Personal Hearing:-

Keeping with the established principles of natural justice, virtual hearing in the matter was extended to the applicant, as requested by them and accordingly, Shri Hareesh Nikam (Manager, Corporate Accounts and Tax Department) and Shri Vikas Agrawal (Tax Practitioner), authorized representative of the applicant attended the hearing on 24.09.2021, reiterating their contentions in ARA-01 filed. They also furnished a post hearing written submission dated 26.10.2021 detailing therein the issues urged during the course of hearing, which has also been taken on record.

5. **The legal position, analysis and discussion:-** At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, 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 CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

5.1 Section 96 of CGST Act, 2017, Authority for advance ruling, stipulates as under:-

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and





Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Section 97(2) of CGST Act, 2017 stipulates that:-

The question, on which the advance ruling is sought under this Act, shall be in respect of—

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (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.

Further 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: -The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only -

- a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
- b. On the concerned officer or the jurisdictional officer in respect of the applicant.

Thus in view of the above section 103 of CGST Act, 2017, the ruling so sought by the Applicant would be binding only on the Applicant and on the concerned officer or the jurisdictional officer as stipulated above.

5.2 Thus, the applicant in the instant application, has sought ruling regarding the eligibility or otherwise of the exemption from compensation cess on the subsequent supply of coal rejects by the applicant, as provided under Sr. No. 41A of Notification no. 01/2017- Compensation Cess dated the 28th June, 2017 as amended vide Notification no. 02/2018-Compensation Cess (Rate) dated 26/07/2018, read with corrigendum issued under F.No. 354/255/2018-TRU (PI-II) dated 2/8/2018, effective from 27th July, 2018.

5.3 Before proceeding ahead to address the aforementioned issue raised by the applicant on merits, this authority finds it opportune to mention here that Section 95 (a)



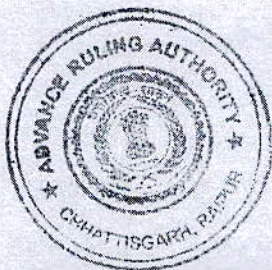
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of the CGST Act, 2017 defines Advance Ruling as a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. This authority would also like to clarify that, although in the instant case the point on which ruling is sought by the applicant pertain to the supply of goods by the supplier of goods viz. RVUNL, Chhattisgarh taxable at supplier end being the supplier of goods, the applicant before us is M/s PKCL. However, since the applicant is directly impacted with the payment of compensation cess by the said supplier on the impugned supply, and as the said payment by the supplier is the core decisive factor for ascertaining the eligibility or otherwise of the benefit claimed by the applicant as provided under entry at Sr. No. 41A of Notification no. 01/2017- Compensation Cess dated the 28th June, 2017 supra, this authority intends to pass the ruling so sought for by the applicant.

5.4 In this context, we find that, the Applicant had inter-alia furnished following relevant details to the issue in hand: -

- i. Government of India allotted Coal Blocks (Parse Kente) in the State of Chhattisgarh to Rajasthan Rajya Vidyut Utpadan Nigam Limited ("RVUNL") on 19<sup>th</sup>/25<sup>th</sup> June, 2007 (the Coal Blocks).
- ii. RVUNL issued tender inviting bids for selection of suitable persons to enter into a joint venture arrangement with RVUNL and form a joint venture company to undertake coal mining and arrange for its transportation and delivery to the Thermal Power Stations ("TPS") of RVUNL in the State of Rajasthan.
- iii. Adani Enterprises Limited ("AEL") was selected as a successful bidder, and accordingly incorporated a Joint Venture Company named Parse Kente Collieries Limited ("PKCL") the Applicant herein. RVUNL holds 26% equity while AEL holds 74% equity in the Applicant company. A Coal Mining and Delivery Agreement ("CMDA") was entered into on 16<sup>th</sup> July, 2008 between RVUNL and the Applicant. Broadly summarized, the salient features of the CMDA are as under:
  - (a) The Applicant would carry out all Works, as defined therein, from identification of techno commercially viable coal blocks to coal mining and arranging for delivery of coal to RVUNL's TPS;
  - (b) All expenses incurred for the Works are to be borne by the Applicant, including all expenses in relation to the cost of acquisition of land/lease of land, fees and arranging of clearances, reports and licenses and all charges incurred for arranging mining data, geological data and reports;



*[Handwritten Signature]*



- (c) The Applicant has no right or interest in the coal and the coal block, and the coal at all times remains the property of RVUNL;
- (d) The Applicant is required to establish a Coal Washery and deliver the washed coal of the required specifications to RVUNL;
- (e) The coal rejects remaining after washing shall be the property of the Applicant and shall be disposed of by the Applicant subject to RVUNL's right to observe the disposal of the rejects and the right to witness the determination of the grade thereof;
- (f) The Applicant shall arrange for transportation of coal from mines/washery to the delivery points by Rail and arrange for booking of rakes and payment of Railway freight charges to the Railways before dispatch;
- (g) The Applicant shall also arrange for loading of the Railway Rakes and for that purpose, arrange necessary place of storage of mined/beneficiated coal at the Railway siding; Unloading of the coal at the delivery point shall be the responsibility of RVUNL; In consideration of the services rendered by the Applicant, RVUNL shall pay to the Applicant a contract price as agreed in the CMDA which is divided into basic price and reimbursables.
- (h) The Applicant, on a back to back basis, has subcontracted the work of mining and washing of coal to Adani Enterprises Limited ("AEL"). AEL has set up a Coal Washery close to mine pithead and upon mining of the raw coal, washes the same.
- (i) Prior to GST regime, when Clean Energy Cess was applicable, RVUNL was paying the same on entire quantity of coal. With introduction of GST on 1<sup>st</sup> July, 2017, all parties-AEL, PKCL and RVUNL have obtained registration for the establishments located in the State of Chhattisgarh. To comply with the GST laws, having regard to the provisions of the CMDA and the Mining Contract with AEL, the parties execute the following documents:-

AEL issues three Invoices – two for the mining fees (one for 90% and other for balance 10%) of washed coal and the other for the quantity of the coal rejects, obtained post washing. AEL charges GST @ 18% in both the invoices;

The Applicant (PKCL), in turn, issues 3 Invoices on RVUNL towards mining fees. The first two invoices are in respect of the fee payable in cash, while the third is in respect of the fee payable in kind (by way of transfer of property in the reject coal).

The first invoice is for 90% of the mining fee payable in cash, which is computed with reference to the quantity of washed coal at the contract





price as per CMDA. The second invoice is for the balance 10% of the mining fee payable in cash, computed with reference to the quantity of washed coal at the contract price as per CMDA. These two invoices are issued by PKCL, Chhattisgarh on RVUNL, Chhattisgarh. GST at the rate of 18% under heading 998622 is charged.

The third invoice issued by Applicant on RVUNL, Chhattisgarh is also for the mining fee, computed with respect to the property in the reject coal transferred to PKCL in terms of the CMDA. Here too, GST is charged at the rate of 18% under heading 998622:

On the basis of the two invoices for mining fees payable in cash issued by PKCL, AEL raises back to back invoices.

RVUNL, Chhattisgarh also issues two invoices. One for the washed coal on RVUNL's TPS where such washed coal is delivered. The other invoice is on the Applicant for the coal rejects with the following description "Washery Rejects (Barter Supply against Mining Service)".

Under the two invoices issued by RVUNL, Chhattisgarh GST is charged @ 5% which is tax leviable on coal under heading 2701. It is in these invoices, for the first time, Compensation Cess is charged @ Rs.400/- PMT.

(j) Since the Applicant is required to initially incur all expenses in accordance with the CMDA, as far as the Compensation Cess is concerned, the Applicant, at all relevant times, deposited Compensation Cess, calculated @ Rs.400/- per metric ton on the total quantity of the ROM coal (equivalent to quantity of washed coal and coal rejects) in the electronic cash ledger of RVUNL.

(k) The Applicant understands that instead of debiting the Compensation Cess on the total quantity of coal, RVUNL debited Compensation Cess equal to the quantity of the washed coal upon issuance of an invoice by RVUNL, Chhattisgarh to the respective TPS located in the State of Rajasthan, and thereafter, debited the balance Compensation Cess at the time of issuance of an invoice for the coal rejects in the name of the Applicant.

(l) Until 26<sup>th</sup> July, 2018, the Applicant availed ITC of the Compensation Cess and utilised the same for payment of Compensation Cess on the sale of coal rejects, without collecting the same from the buyer, by issuing a credit note in favour of the buyer for the same.

(m) The above position continued until Notification No. 2/2018-Compensation Cess dated 26<sup>th</sup> July, 2018 was issued, whereby a new Entry 41A was inserted, which reads as under:

Coal rejects supplied by coal washery, arising out of coal on which compensation cess has





been paid and no (ii) input tax credit thereof has not been availed by any person

(n) # (the word "no" has been removed vide Corrigendum F. No. 354/255/2018-TRU (Pt-II), dated 2-8-2018) Two conditions are imposed by the aforesaid Notification. They are (i) Compensation Cess is paid on coal and (ii) ITC is not availed of the Compensation Cess so paid. These two conditions are satisfied in this case.

(a) After the said Notification dated 26<sup>th</sup> July 2018, while the Applicant continued to deposit Rs. 400/- per ton on the total quantity of the coal in the electronic cash ledger of RVUNL, which is a sum of total of washed coal and coal rejects, the Applicant did not avail of ITC of the Compensation Cess paid by RVUNL and shown in the taxable invoice issued by RVUNL in relation to coal rejects. The Applicant in fact, did not charge or collect Compensation Cess from its customer to whom coal rejects were sold.

(b) While the Applicant showed the payment of Compensation Cess, which was paid after availing ITC of the Compensation Cess paid by RVUNL, the Applicant issued a Credit Note to the customer for the same. The Applicant, in other words, did not collect the Compensation Cess on coal rejects from its customer prior to 26<sup>th</sup> July, 2018 also.

5.5 Clause 3.2.3 of the impugned Coal Mining and Development Agreement [CMDA], covers the aspect of establishment of coal washery and it stipulates that the Applicant shall establish a Coal washery and deliver coal of the required specifications in accordance with the terms and conditions of the Agreement and that the rejects remaining after washing shall be the property of the Applicant. Further it has been informed by the Applicant in their earlier application that the mining contractor AEL has set up a coal washery close to the mine pithead and upon mining of the raw coal, washes the same. Thus, the obligation to undertake washing under the CMDA squarely lies upon the Applicant and in the instant case the Applicant gets the coal washed by AEL, on sub-contract basis, but the obligation to undertake washing is on the Applicant. This is also apparent from the fact that the Applicant raises an invoice on RVUNL for mining services in respect of coal rejects.

5.6 In the present case as intimated by the applicant, consequent to the process of washing at the coal washery supra, washed coal and coal rejects emerge and thereafter RVUNL, Chhattisgarh issues two invoices, one for the washed coal on RVUNL's TPS where such washed coal is delivered and the other invoice is on the Applicant for





the coal rejects with the following description "Washery Rejects (Barter Supply against Mining Service)".

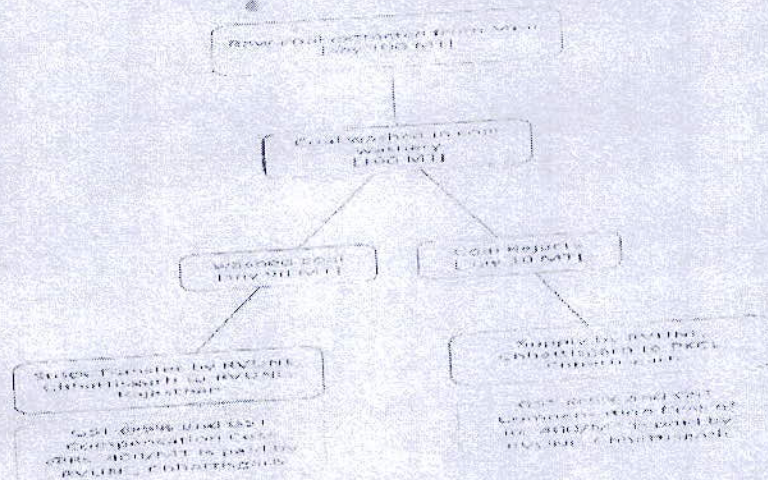
5.7 Thus we proceed to discuss the issue involved. The Applicant is a Mine Development Operator (MDO), engaged in rendering Mining Services under Coal Mining and Development Agreement, to RVUNL, which has been allotted a coal block by the Central Government. As a part of the activities undertaken by the Applicant under the CMDA, it also operates a coal washery for washing the raw coal i.e. coal as extracted from the mine. In terms of clause 3.4 of the CMDA, the coal rejects arising after washing of coal are the property of the Applicant. Further, the Applicant, as a part of its contractual obligations, deposits in the Electronic Cash Ledger of RVUNL the Compensation Cess attributable to the entire quantity of raw coal. At the time of supply of washed coal by RVUNL Chhattisgarh to RVUNL Rajasthan, RVUNL debits the Compensation Cess attributable to the quantity of washed coal supplied by it. RVUNL also debits the amount of Compensation Cess attributable to the coal rejects at the time of supplying the said rejects to the Applicant.

5.8 The sum total of the Compensation Cess paid by RVUNL on the quantity of washed coal and the quantity of reject coal is equal to the Compensation Cess payable on the entire quantity of raw coal. In other words, the quantities of washed coal and reject coal form the sum total of the quantity of raw coal. This position is evident from the returns filed by RVUNL with the Coal Controller. The Applicant having a coal washery, is entitled to supply coal rejects by discharging NIL rate of Compensation Cess, in terms of Sr No 41A of Notification No 1/2017-CC(Rate), as amended, as long as the same arises out of raw coal, on the entire quantity of which Compensation Cess has been discharged and no input tax credit of the Compensation Cess so paid is availed by any person. The Applicant has informed that coal rejects arise from raw coal and that RVUNL was discharging Compensation Cess at the time of supplying the washed coal and the reject coal, the sum total of which is equal to the entire quantity of raw coal mined. The relevant observations in this regard are as under -

5.9 In our considered view, the liability to discharge Compensation Cess arise in terms of Section 8 of the GST Compensation to States Act 2017, upon intra/interstate supplies of goods and services, as provided for in Section 9 of the CGST Act and Section 5 of the IGST Act. It is an undisputed position that RVUNL does not supply raw coal as such; rather the raw coal is subjected to washing by the Applicant. Since RVUNL supplies only washed coal and coal reject, the sum total of which is equal to the Raw coal mined, the stage of discharging Compensation Cess on the same cannot arise at the anterior to such a supply being made by RVUNL. Further to bring home their contentions in this regard the applicant has also furnished before us an illustration in the form of flow chart, very much relevant to the issue in hand.







5.10 For the Applicant to be eligible to discharge Nil Compensation Cess on the supply of reject coal in terms of Entry at Sr. No. 41A, the coal reject should have arisen for coal on which Compensation Cess had been discharged. From the submissions made by the Applicant we find that in the instant case the coal reject has arisen out of raw coal, on the entire quantity of which compensation cess had been discharged by RVUNL, albeit of the stage of supply of washed coal and coal rejects. When RVUNL supplies washed coal and coal rejects [to RVUNL Rajasthan and Applicant respectively], the levy of Compensation Cess arises at the stage of supply. The Applicant has further stated that the coal rejects supplied by them has arisen out of raw coal, on which compensation cess had been paid by RVUNL at the stage of supply of washed coal and coal reject, the sum total of which is equal to the quantity of raw coal mined.

5.11 Once this payment of compensation cess in case of washed coal / reject coal is discharged and by RVUNL to the government exchequer liability as regards payment of compensation cess stands discharged by RVUNL fulfilling therein one of the three conditions as stipulated for availing benefit of NIL rate of tax on Coal rejects under Notification No.1/2017-Compensation Cess (Rate) dated the 28th June, 2017, as amended vide Notification No. 2/2018-Compensation Cess dated 26th July, 2018 (read with corrigendum F. No. 354/255/2018-TRU(PI-II) dated 02.08.2018) by insertion of Sr. No. 41A effective from 27th July, 2018..

It follows from the terms and conditions of the CMDA supra that RVUNL raises a tax invoice in favour of the Applicant for the rejects. Such tax invoice is evidence of transfer of property in the coal rejects from RVUNL to the Applicant, as contemplated in Clause 3.4.1 of the CMDA. The same thus constitutes a supply within the meaning of Section 7 of the



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CGST Act, 2017 on which GST as well as Compensation Cess has to be discharged by RVUNL, the supplier. The Applicant has further submitted that the said tax liabilities are being discharged by RVUNL. The net result from the aforesaid discussion shows that as per the said CMDA, RVUNL as a supplier is duty bound to discharge both GST and the Compensation Cess on the total quantity of the coal mined. It has further been informed by the Applicant that the said total amount payable towards GST and Compensation Cess is deposited by it, the Applicant with RVUNL, which is then paid by RVUNL to the Government and that this is an internal arrangement between them.

5.12 Sr. No. 41A of Notification no. 01/2017-Compensation Cess dated the 28th June, 2017 as amended vide Notification no. 02/2018-Compensation Cess (Rate) dated 26/07/2018, read with corrigendum issued under F.No. 354/255/2018-TRU (PI-II) dated 2/8/2018, effective from 27th July, 2018, provides that Nil rate of Compensation Cess would apply only in the case of coal rejects supplied by a coal washery, arising out of coal on which Compensation Cess has been paid and no input tax credit of the Compensation Cess paid on coal is availed by any person. Thus we are of the considered view that Nil Compensation Cess as provided under entry at sr. no. 41A supra is eligible to the applicant on coal rejects arising out of the raw coal mined on being subjected to the process of washing in the coal washery of applicant, once the compensation cess as applicable, had been paid by RVUNL on the entire quantity of raw coal mined. Besides this for availing the said exemption, input tax credit on the compensation cess so paid on the said raw coal raised should also not be availed by any person.

6. In this context, it would also be not out of place to mention here that in the Agenda for 25<sup>th</sup> GST council meeting held on 18<sup>th</sup> January 2018, the Fitment Committee had recommended Nil compensation on coal rejects or to classify the coal rejects as a by-product under 2704/2706 which does not attract compensation cess and to conduct a detailed study on the issue of double taxation. Thereafter, in the Agenda for 28<sup>th</sup> GST council meeting held on 21<sup>st</sup> July 2018, the Fitment Committee had recommended for consideration of the GST Council this very issue for grant of exemption to washery from the compensation cess subject to the condition that no ITC would be available to the principal and cess has been paid, on the ground that imposition of compensation cess again on coal rejects amounts to double taxation. The decision of GST council, granting the said exemption from compensation cess to coal rejects from washery (arising out of cess paid coal on which ITC has not been taken), was thereafter issued through a press release. Subsequently, on the above basis of the above recommendation of GST council, the instant Notification No. 2/2018-Compensation Cess dated 26th July, 2018 (read with corrigendum F. No. 354/255/2018-TRU(PI-II) dated 02.08.2018) was issued, amending Notification No. 1/2017-Compensation Cess, thereby inserting a new Entry 41A, which read as under -





"41A	27	Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person.	NIL";
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In view of the deliberations and discussions as above, we pass the following order:-

**ORDER**

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

Raipur Dated ...17.../12/2021

No.STC/AAR/08/2021

The ruling so sought by the Applicant is accordingly answered as under:

The Applicant is entitled to the benefit of NIL rate of Compensation Cess in terms of Sr. No. 41A of Notification no. 01/2017- Compensation Cess dated the 28th June, 2017 as amended vide Notification no. 02/2018-Compensation Cess (Rate) dated 26/07/2018, read with corrigendum issued under F.No. 354/255/2018-TRU (Pt-II) dated 2/8/2018, effective from 27th July, 2018 on above coal rejects supplied by it, as long as the same arise from raw coal on which appropriate Compensation Cess had been paid by RVUNL at the stage of supply of washed coal and coal rejects respectively supplied by their coal washery (totalling to the entire quantity of raw coal) and as also when no Input Tax Credit of the Compensation Cess so paid is availed by any person.



*Sd/-*  
Sonal K. Mishra  
(Member)

*Sd/-*  
Rajesh Kumar Singh  
(Member)

**TRUE COPY**

*[Signature]*  
17/12/21  
MEMBER  
ADVANCE RULING AUTHORITY  
CHHATTISGARH, RAIPUR

**TRUE COPY**

*[Signature]* 17/12/2021  
MEMBER  
ADVANCE RULING AUTHORITY  
CHHATTISGARH, RAIPUR