



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)
Sri Sahil Inamdar, Additional Commissioner (Central Tax)

A.R.Com/08/2022

Date:03.04.2023

TSAAR Order No.03/2023

**ORDER UNDER SECTION 104(1) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017
AND UNDER SECTION 104(1) OF THE TEALANGANA GOODS AND SERVICES TAX ACT,
2017.**

Sub:- TGST Act, 2017 – Order passed by TSAAR in respect of M/s. Srico Projects Pvt. Ltd– to be declared as void ab initio in view of pending investigation, on the same question raised in the advance ruling application, by DGGI, Hyderabad Zonal Unit – Orders for action u/s 104 of the CGST/TGST Act, 2017 issuance - Regarding.

Ref:- 1. Hearing notice under Section 104 of the CGST Act dt: 18.01.2023.
2. Additional Director General, Hyderabad Zonal Unit,
F.No. INV/DGGI/HZU/GST/L/33/2021-22/5482, Dt: 07.09.2022.
3. CCT's Ref No. AC-I/2022-23 (ENFT WING), Dated: 22.12.2022.
4. Application of M/s. Srico Projects Pvt Ltd for an advance ruling in Form GST ARA-01 dt:24.06.2022.
5. Advance Ruling in proceedings no. A.R.Com/08/2022 dt.07.07.2022 in TSAAR Order No. 35/2022.

Opinion of State Authority on objection raised by Additional Director General, Hyderabad Zonal Unit.

It is noticed by the Authority for Advance Ruling of Telangana State that the question raised by the applicant M/s. Srico Projects Pvt Ltd (GSTN: 36AAGCS7109F1ZD) in the Advance Ruling cited in 4th reference above was pending in a proceedings before Directorate General of GST Intelligence, Hyderabad Zonal Unit. It is seen from the material submitted by M/s. Srico Projects Pvt Ltd that this fact was never brought to the notice of the Authority for Advance Ruling by them. Therefore it was opined by the Authority for Advance Ruling that prima facie the applicant has obtained an Advance Ruling by suppression of this material fact and hence the advance ruling needs to be withdrawn as void *ab initio* u/s 104 of the CGST Act, 2017.

Accordingly a notice was issued to the applicant on 18.01.2023 vide reference 1st cited above calling for attendance before the Advance Ruling Authority on 24.01.2023 at 3:30 P.M. The notice was served on their authorized representative Sri K. Ramesh, who has filed a letter on 21.01.2023 stating that they are unable to attend the personal hearing as their Director is out of Country and that orders may be passed as per merits and rules.

As seen from the material on records in light of reference 2nd cited the questions raised by applicant are already under investigation by the DGGI and the DGGI has made the incidence report on 08.04.2022. Therefore the application is not liable to be entertained under Section 98(2) of the CGST Act, 2017. This was not brought to the notice of the Authority for Advance Ruling at any stage of the

Advance Ruling proceedings including at the time of the personal hearing dt: 28.06.2022. Therefore the applicant has obtained the Advance Ruling by suppressing these facts and hence Orders issued in the reference 5th cited are declared as void *ab initio*.

Opinion of Central Authority on objection raised by Additional Director General, Hyderabad Zonal Unit.

It is noticed by the Authority for Advance Ruling of Telangana State that the questions raised by the applicant M/s. Srico Projects Pvt Ltd (GSTN: 36AAGCS7109F1ZD) in the Advance Ruling Application for an advance ruling in Form GST ARA-01 dt:24.06.2022 cited in the above 4th reference above was already pending in the proceedings, initiated on the taxpayer, by Directorate General of GST Intelligence, Hyderabad Zonal Unit.

2. It is mentioned in the letter issued by Additional Director General of DGGI, Hyderabad Zonal Unit dated 07.09.2022, cited in the above 2nd reference, that investigation on M/s. Srico Projects Pvt. Ltd. was initiated on 15/12/2021 on the issue that the taxpayer has adopted GST rate of 12% instead of 18% in respect of certain works contract services rendered to corporations, trust, public sector undertakings etc. whose government share is less than 90% thereby resulting in short payment of GST.

3. The same questions were raised by the applicant M/s. Srico Projects Pvt Ltd (GSTN: 36AAGCS7109F1ZD) in the Advance Ruling cited in the above 4th reference dated 24.06.2022. It is observed that investigation was initiated on 15/12/2021 which is much prior to the application by M/s. Srico Projects Pvt Ltd for an advance ruling in Form GST ARA-01 dated 24.06.2022. The DGGI has made the incidence report on 08.04.2022. It is seen from the material submitted by M/s. Srico Projects Pvt Ltd that this fact was never brought, by them at any stage, to the notice of the Authority for Advance Ruling. Therefore it is opined by the Authority for Advance Ruling that prima facie the applicant has obtained an Advance Ruling by suppression of this material fact and hence the advance ruling is liable to be declared as void *ab initio* u/s 104(1) of the CGST/TGST Act, 2017.

Relevant extract of section 104(1) of the CGST/TGST Act, 2017 is produced below:

104. Advance ruling to be void in certain circumstances.— (1) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

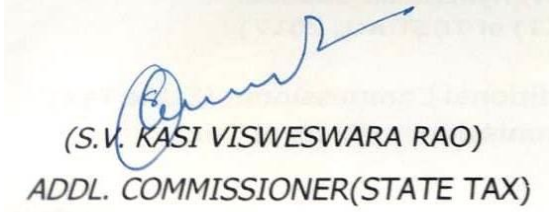
Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

4. Accordingly a notice was issued to the applicant on 18.01.2023 vide reference 1st cited above calling for attendance before the Advance Ruling Authority on 24.01.2023 at 3:30 P.M. The notice was served on their authorized representative Sri K. Ramesh, who has filed a letter on 21.01.2023 stating that they are unable to attend the personal hearing as their Director is out of Country and that orders may be passed as per merits and rules.

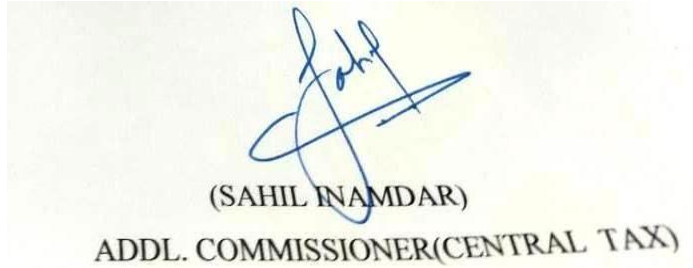
5. Section 98(2) of the CGST/TGST Act, 2017 states that Authority for Advance Ruling shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act. Therefore the application was liable to be rejected under Section 98(2) of the CGST/TGST Act, 2017. Taxpayer has not brought the issue to the notice of the Authority for Advance Ruling at any stage of the Advance Ruling proceedings including at the time of the personal hearing dated 28.06.2022. Therefore the applicant has obtained the Advance Ruling by suppressing the facts and hence the Order issued in the reference 5th cited is liable to be declared as void *ab initio*.

ORDER:

In view of the above discussion, the Order issued in the 5th reference cited above is declared as void *ab initio* as per section 104(1) of CGST/TGST Act, 2017 and thereupon all the provisions of CGST/TGST Act, 2017 or the rules made thereunder shall apply to the applicant as if such advance ruling had never been made.



(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER(STATE TAX)



(SAHIL INAMDAR)
ADDL. COMMISSIONER(CENTRAL TAX)

To
M/s. Srico Projects Private Limited
178/A, Srico, Road No.12, MLA Colony,
Banjara Hills, Hyderabad, Telangana- 500034.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Hyderabad Commissionerate, Room No. 813, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad 500 004.

Copy to:

3. The Assistant Commissioner (ST) Jubilee Hills-II – Circle.