



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 B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

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

A.R.Com/02/2020

Date:07.06.2022

TSAAR Order No.30/2022

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017
AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT,
2017.]**

1. M/s. The Singareni Collieries Company Limited, Head Office, Kothagudem Collieries, Kothagudem, Badradri, Telangana, 5071014 (36AAACT8873F1Z1) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling The concerned jurisdictional officer also raised no objection to the admission of the application. The application is therefore, admitted
4. **Brief facts of the case:**

M/s. Singareni Collieries Company Limited is entering into contracts with a host of vendors/suppliers for extraction of coal. Under rule (3) of State Forest produce transit rules they are liable to pay a certain amount to move the mined coal through the forest area as permit fee at the rate of Rs. 10 per ton of coal transported. The applicant is desirous of ascertaining whether GST is attracted on reverse charge on this amount paid to the Forest department. Hence this application.

5. Questions raised:

1. Whether, in the facts and circumstances of the case, the Applicant is obliged to pay GST on the forest permit fee paid by it under reverse charge mechanism?
2. Alternatively, if GST is payable on forest permit fee paid by the Applicant, can services received by the Applicant be classifiable under heading 9973 of Notification No. 11/2017 Central Tax (Rate) dated 28th June, 2017 and thus be exigible to a lower rate of tax for the period prior to 01-01-2019?

6. **Personal Hearing:**

The Authorized representatives of the unit namely Sri S. Anantha Narayanan, CA & AR and Sri B. Sridhar, DGM Finance attended the personal hearing held on 16-02-2022. The authorized representatives reiterated their averments in the application submitted and raised new contentions other than those raised in the application and requested to dispose their application on merits at the earliest.

7. **Discussion & Findings:**

The coal mines operated by the applicant are situated in the forest area and under rule 3 of the State Forest produce transit rules, no forest produce shall be moved into or from within the State by land or water. Such movement is permitted only when the person moving the produce obtains a forest permit by paying a fee which in the instant case is Rs. 10 per ton of coal transported.

The fee collected is for regulating the act of transport through a forest area. The Hon'ble Supreme Court of India in the case of P. Kannadsan etc. vs. State of Tamilnadu & other etc. (1996)5SCC670 has been observed that "...in the matter of fees, it is not necessary that element of quid pro quo should be established in each and every case, for it is well settled that fees can be both regulatory and compensatory and that in the case of regulatory fees, the element of quid pro quo is totally irrelevant." Such fees may offset the expenses incurred in rendering the said service and co-relation between the two is not important and in some instances such as license fee, which are regulatory in nature, the quid pro quo also is not essential.

Further the contravention or violation of State Forest produce Transit rules will attract penalty under Sections 20 and 29 of A.P. Forest Act, 1967. Thus transporting coal through forest area without obtaining a forest transit permit and paying the transit fee is punishable under Section 20 (4) of the Forest Act. Penalties are fixed for breach of the provisions of the Rules. The transit fee is the amount of consideration for tolerating an act or a situation arising out of the legal obligation during the transport of the mineral through a forest area. The entry in 5(e) of Schedule II to the CGST Act classifies this act of forbearance as follows:

5(e): Agreeing to the obligation to refrain from an act, or tolerate an act, or a situation, **or to do an act.**

Further Section 2(31)(b) of the CGST Act mentions that consideration in relation to the supply of goods or services or both includes the monetary value of an act of forbearance.

The facts of the present case clearly reveal that the forest department is collecting transit fee to allow the transit of vehicles carrying coal through the forest area, thus this is covered under entry 5(e) of the Schedule II to the CGST Act, 2017 wherein 'to do an act' is deemed to be a service. Forest department's act of allowing such vehicles through forest area is therefore covered under this head. Further these services are not classifiable under heading '9973' of Notification No. 11/2017 as the same relate to 'Leasing or rental services without an operator' whereas the present service relates to Entry 5(e) of the Schedule II to the CGST Act, 2017.

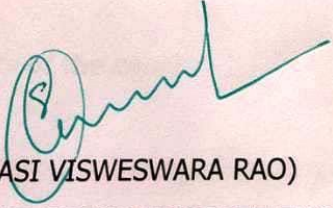
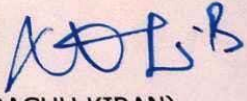
Further the consideration received is taxable on reverse charge basis vide the service entry at Serial No. 5 of Notification No. 13/2017 dated: 28.06.2017.

8. **The ruling is given as below:**

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Whether, in the facts and circumstances of the case, the Applicant is obliged to pay GST on the forest permit fee paid by it under reverse charge mechanism?	Yes, GST is payable on forest permit fee on reverse charge basis

2. Alternatively, if GST is payable on forest permit fee paid by the Applicant, can services received by the Applicant be classifiable under heading 9973 of Notification No. 11/2017 Central Tax (Rate) dated 28th June, 2017 and thus be exigible to a lower rate of tax for the period prior to 01-01-2019?	No, The supply is to be clarified as tolerating to do an act as discussed above and is to be treated as service as per entry 5(e) of the schedule II to the CGST Act, 2017
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 (S.V. KASI VISWESWARA RAO) ADDL. COMMISSIONER(STATE TAX)	 (B. RAGHU KIRAN) ADDL. COMMISSIONER(CENTRAL TAX)
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[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. The Singareni Collieries Company
Limited, Head Office, Kothagudem Collieries,
Kothagudem, Badradri, Telangana, 5071014.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Rangareddy Commissionerate, Posnett Bhavan, Tilak Road, Abids, Hyderabad 500 095

Copy to:

1. The Superintendent (Central Tax) Kothagudem Range. NMDC Ltd., Sponge Iron Unit, Quarter No.B3, Type-II, Bhadrachalam Road, Kothagudem, Bhadradri- 507154.
//t.c.f.b.o//

Superintendent (Grade-I)