


GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2022/07

(In Application No. Advance Ruling/SGST&CGST/2021/AR/35)

Dated:07.03.2022

Name and address of the applicant	:	M/s Acme Holding, E-9- A-1, GIDC Estate, Savli, Manjusar, Savli, Vadodara-391775
GSTIN of the applicant	:	24AAXFA3682P1ZM
Date of application	:	29/09/2021
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(d)and (e)
Date of Personal Hearing	:	18/02/2022
Present for the applicant	:	Shri Mayank Patel, Accountant Finance Consultant, Shri Jigar Parikh, CA

Brief Facts:

M/s Acme Holding, hereinafter referred to as Acme for the sake of brevity, has carried out job work of fabrication services on the goods supplied by its GST registered customer for the period FY 17-18 and FY 18-19. Acme submits that it did not charge GST and cleared the goods on job work invoice; while filing GSTR-1 as well as GSTR-3B of respective periods, Acme filed such transactions under exempt supply.

2. Acme submits that at the time of preparation of GSTR-9C and GSTR-9, their auditor identified non-compliance with respect to non-payment of tax on the supply. The applicant submits that such delay in payment of tax was paid through Form DRC-03 together with applicable interest thereon. Acme submits that it then raised tax invoice in February 2020 for supply of FY 2017-18 and in July 2020 for supply of FY 2018-19 as earlier issued job work invoice was not in line with the provision of the law, for the purpose of passing on credit to the recipient.

3. Acme submits that **no additional income has been booked in its books of account for the tax invoices raised in Feb-2020 and July-2020; as that income were already taken** into consideration while finalising the books of accounts of the respective period.

4. Question on which Advance Ruling sought:

1. For the Job work done during F. Y. 18-19, whether the invoice raised by the applicant considered to be a valid tax invoice as per provisions of GST law?
2. Whether the taxpayer is rightful to recover the tax from principal supplier of goods upon issuing a 'tax invoice' as per provision of the law subsequently?
3. In continuation of question 2, whether the recipient can claim ITC?

Personal Hearing

5. Personal hearing granted on 18-2-22 was attended by Shri Mayank Patel, Accountant Finance Consultant and Shri Jigar Parikh, CA and they reiterated the submission.

Revenue's submission:

6. Revenue has neither submitted its comments nor appeared for hearing.

FINDINGS

7. We have carefully considered Acme's submissions.

8. Acme submitted subject Application vide Section 97(2)(d) & (e) CGST Act.

9. Section 97(2)(d) is a question on admissibility of ITC of tax paid or deemed to have been paid. Section 97(2)(e) is a question on determination of the liability to pay tax

10. On reading the application, we infer that a purpose of Acme to file subject application is an attempt to seek Ruling for its customers admissibility to ITC (Question no 3). The Advance Ruling pronounced, as per Section 103(1) CGST Act, shall be binding only on Acme and its concerned jurisdictional officer and not on Acme's customer.

11. During Personal Hearing, Shri Jigar Parikh, CA submitted that Question 1 pertains to the Acme which is their principal question and that question 2 and question 3 of the Advance Ruling Application pertains to Acme's customers obligation or eligibility to claim ITC. Shri Jigar Parikh submitted to pass a Ruling with reference to Question 1 and that Acme withdraws Question 2 & 3.

12. Acme's Questions 1 is not regarding determination of liability to pay tax but pertains to whether the invoice raised by Acme to its customer be considered to be a valid tax invoice. The provisions of Section 97(2) CGST Act, for sake of ready reference, is reproduced as follows:

“(2) 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; (check if classification sought by acme)*
- 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.”*

13. As per Section 95(a), CGST Act, 'Advance Ruling' means a decision provided by the Authority to an applicant **on matters/ questions specified in Section 97(2)**, in relation to the supply of goods/ services or both being undertaken or proposed to be undertaken by the applicant. In view of the statutory provisions of Section 97(2) CGST Act, We hold that the Questions raised by Acme does not fall under the gamut of said Section 97(2).

Ruling

The subject application is not maintainable for reasons recorded at para 10 to 13 and thereby rejected.

(ATUL MEHTA)
MEMBER (S)

(ARUN RICHARD)
MEMBER (C)

Place: Ahmedabad
Date: 07.03.2022