

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
ROOM NO.206, 2ND FLOOR, PAPJM BUILDING,
NO.1. GREAMS ROAD, CHENNAI -600 006.**

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

Members present:

Shri R.Gopalsamy, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. N.Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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Advance Ruling No.21 /ARA/2023 Dated: 20.06.2023

- 1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.*
- 2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act 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.*
- 3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
- 4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*
- 5. The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.*

GSTIN Number, if any / User id		33AADCR4558C1ZM
Legal Name of Applicant		Tvl. Raja Dheepam Spinning Mills Private Limited
Registered Address / Address provided while obtaining user id		SF.No. 161/2, Vellapparai Pudhur, Pallipalayam, Namakkal Dt. Pin.: 638008
Details of Application		Form GST ARA – 01 Application Sl.No.65/2022/ dated 29.12.2022.
Concerned Officer		Centre: Pallipalayam Range, Salem Commissionerate. State: Tiruchengode Rural Assessment circle, Salem Division.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Manufacturer
B	Description (in brief)	Textile and Spinning Manufacturer; Wind Mill Power Generation for Captive Consumption.
Issue/s on which advance ruling required		Classification of any goods or services or both; Applicability of a notification issued under the provisions of this Act.
Question(s) on which advance ruling is required		1. What is the rate of GST for used/running Wind Turbine Generator (WTG)/ Wind Mill with accessories for sale purpose? 2. What are HSN Code 8 digits of Wind Turbine Generator (WTG)/ Wind Mill? 3. What is the rate of GST for Wind Turbine Generator (WTG)/ Wind Mill installed land? 4. What is the HSN Code 8 digits of Wind Mill installed land?

The applicant, M/s Raja Dheepam Spinning Mills Private Limited, having registered premises at SF.No. 161/2, Vellapparai Pudhur, Pallipalayam, Namakkal Dt., Pin.: 638 008, (hereinafter referred as the applicant) is registered under the GST Act, 2017, with GSTIN 33AADCR4558C1ZM. The Applicant has sought Advance Ruling on the following questions:

1. What is the rate of GST for used/running Wind Turbine Generator (WTG)/ Wind Mill with accessories for sale purpose?
2. What are HSN Code 8 digits of Wind Turbine Generator (WTG)/ Wind Mill?
3. What is the rate of GST for Wind Turbine Generator (WTG)/ Wind Mill installed land?
4. What is the HSN Code 8 digits of Wind Mill installed land?

2. The Applicant has furnished the following details in their statement of relevant facts;

That they are desirous to sell one Wind Turbine Generator Mill located in one geographical area of SF.No. 1225, Rasipalayam wind Park, Sankarandampalayam Village, Dharapuram Taluk, Tirupur District, on as is where is basis along with the land in which wind mill is installed land.

3. Regarding applicability of GST, the Applicant referred to Notification No. 1/2017, Central Tax Rate dated 28.06.2017, Schedule I, Serial No. 234, Chapter 84,85 or 94 (d) Wind Mills, Wind Operated Electricity Generator (WOEG) with 2.5 % rate of GST.

4. In this regard, the Joint Commissioner, GST &CE, Salem Commissionerate has offered the following remarks vide letter dated 21.04.2023 as below;

As per Notification No. 01/2017 Central Tax (Rate), dated 28.06.2017, amended vide Notification No.08/2021 Central Tax (Rate), dated 30.09.2021, the rate of tax for Wind Turbine Generator/ Wind Mill has been increased from 5% to 12% (6% CGST + 6% SGST) with effect from 01.10.2021.

5. Personal Hearing:

Shri. M. Saravana, Managing Director of M/s. Raja Dheepam Spinning Mills Pvt. Ltd., attended the personal hearing conducted virtually on 15.03.2023 and reiterated the facts narrated in their application and added that land portion will be transferred to the buyer through registered sale deed and the wind mill will be transferred through invoice. The applicant has also furnished the copy of Tax invoice No. T1-2012/13-413, dated 01.08.2012 issued by Tvl. Gamesa Wind

Turbine Private Limited, Chennai, evidencing purchase of 850 KW wind Turbine Generator with 5% VAT.

6. Findings and Discussion:

6.1. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Saravana, Managing Director, M/s. Raja Dheepam Spinning Mills Pvt. Ltd., during the personal hearing. We have also considered the issue involved, on which advance ruling is sought by the applicant, and relevant facts.

6.2. As per the submissions made by the applicant, it is found that a Wind Mill which was purchased and installed during the year 2012, is proposed to be supplied by the Applicant, to a buyer through sale invoice and the land portion on which the wind mill is embedded is proposed to be sold separately and the property will be transferred to the buyer through registered sale deed.

6.3. In this connection, it is observed that, the transaction of the applicant involving the sale of the wind mills is covered under Clause 4 of Schedule II of the CGST Act, 2017, as the transaction involves disposal of business assets. Accordingly the activity of sale of wind mills amounts to supply of goods.

6.4. As per the submissions made by the applicant, entire unit of wind mill is proposed to be supplied as such without dismantling the same. Supply of wind mill with its parts and accessories is a composite supply of wind mill and liable to tax @ 6% CGST with effect from 01.10.2021 vide entry no. 201A of Notification No. 01/2017 Central Tax (Rate), dated 28.06.2017 as amended vide Notification No.08/2021 Central Tax (Rate), dated 30.09.2021.

7. Regarding the sale of land on which the wind mill is embedded, it was submitted by the Applicant that the land portion will be transferred to the buyer through registered sale deed. In this regard, it is ascertained from the Commercial Taxes and Registration Department, Tamil Nadu, that as per the prevailing practice, in cases of transfer of windmill and the embedded land, windmills are not considered as an immovable property and stamp duty is being levied only on the transfer of land under the Indian Stamp Act, 1899. Be it so, according to GST laws, sale of land is not liable to GST, as the sale of land shall be treated neither as supply of goods nor as supply of services in terms of clause 5 of Schedule III of the CGST Act, 2017.

8. In view of the foregoing, we pass the following;

RULING

For Question 1. The Supply of Used Wind Turbine Generator (WTG)/Wind Mill with accessories is a composite supply of Wind Mills and is liable to tax at the rate of 6% under CGST Act, 2017 and 6% under TNGST Act, 2017, in terms of entry 201A of Schedule I of Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017, as amended vide Notification No.08/2021 Central Tax (Rate), dated 30.09.2021.

For Question 2. HSN code for Wind Turbine Generator (WTG) / Wind Mill is 8412 80 30 --- Wind turbine or engine.

For Questions 3 & 4.: The sale of land on which the wind mill is embedded, it is not liable to GST, as the sale of land shall be treated neither as supply of goods nor as supply of services in terms of clause 5 of Schedule III of the CGST Act, 2017.

(N.USHA) 22.6.23
Member (SGST)



(R.GOPALSAMY) 20/06/23
Member (CGST)

To

M/s Raja Dheepam Spinning Mills Private Limited,
SF.No. 161/2, Vellapparai Pudur, Pallipalayam,
Namakkal Dt., Pin.: 638 008.

// By RPAD//

Copy submitted to:-

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai - 600 034.
1. The Principal Secretary / Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

1. The Commissioner of GST & Central Excise,
Salem Commissionerate.
2. The Assistant Commissioner (ST),
Tiruchengode Rural Assessment circle,
Salem Division.
3. Master File / spare – 1.

