

**PUNJAB AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX, BHUPINDRA ROAD PATIALA
147001, PUNJAB**

ORDER NO. AAR/GST/PB/020

DATED: 20.09.2022

(An Appeal against this order lies with the Appellate Authority in terms of Section 99 and Section 100 of the CGST Act, 2017 and Section 99 and Section 100 of the PGST Act, 2017 within a period of thirty days from the date of communication of this order.)

Present:

1. Ms. Varinder Kaur, Additional Commissioner of Central Tax (Central Tax)
2. Mr. Viraj Shyamkarn Tidke, Additional Commissioner of State Tax-1 (State Tax).

Application Details:

GSTIN	03AATPK0442R2ZA
Legal Name	Puneet Kad
Trade Name	M/s Bhawani Founders & Engg Works, Near Gali Swastika Foundary, Batala-143505
Issue(s) on which advance ruling is sought.	1.Classification of any goods or services or both. 2.Determination of time and value of supply of goods or services or both
Personal Hearing Date	27.06.2019 & 11.02.2022,
Hearing Attended by	None appeared
Order Date	20.09.2022

1. M/s Bhawani Founders & Engg Works, Near Gali Swastika Foundary, Batala-143505 (GST Registration No. 03AATPK0442R2ZA) is engaged in the trading business and now he proposes to manufacture chaff cutting machine. The Chaff cutter machine is commonly known as Toka, Chara Cutting Machine, Kulti. The Chaff cutting machine is used for cutting of Chaff, hay and other agriculture produces and same are used for feeding of live-stocks. The applicant has received order to manufacture Chaff Cutting Machines. In this industry such machines are sold as such and also parts of such machines are also sold separately. In case of huge contact of manufacturing of Chaff Cutter Machine. Such machines are manufactured in parts and such parts are delivered as and

when manufactured and assembled in purchaser's location. For ease of transportation also various parts of Chaff Cutting Machine are supplied separately and then assembled in purchaser's location.

2. Proceedings Under Section 98 of CGST/PGST Act:

In this regard personal hearings were held on 27.06.2019 and 11.02.2022 before the Advance Ruling Authority, Punjab. Non appeared on behalf of the applicant. A written reply on 09.02.2022 has been received through mail from the applicant which is placed on file. Through his reply applicant has stated that their submission while filing application should be considered as final as they have nothing more to say in the matter and requested to pass final orders in the case. Jurisdictional Authority I.e. Assistant commissioner, CGST Division, Batala has submitted his written submissions vide letter no. I/560615/2022, dated 10.02.2012, which is placed on file. It was observed that Applicant had deposited only Rs. 5,000/- fee under SGST while filling Advance ruling application. In this regard, notices dated 28.02.2022, 02.03.2022 and 01.09.2022 were issued to the applicant to deposit the requisite fee of Rs. 5,000 for CGST as prescribed under the Act. But the applicant has not deposited the prescribed requisite fee Rs. 5000/-under CGST.

3. QUESTION(S) ON WHICH ADVANCE RULING IS SOUGHT:

1. What is the classification and rate of Goods and Services Tax for Chaff Cutter Machine, which is used in cutting of chaff, hay and agriculture produce for fodder of live stocks?
2. What is the classification and rate of Goods and Services Tax for Parts of Chaff Cutter Machine. The names of parts are Wheel, Handle and stand. Such parts are assembled to manufacture Chaff Cutter Machine.?
3. What is time of supply of machinery, if machinery is manufactured and transported in parts for ease of transportation and to save manufacturing cost and assembled in purchaser location?
4. What is the classification and rate of Goods and Services Tax for Chaff Cutter Machine, which is supplied in parts for ease of transportation and to save manufacturing cost and different invoice is issued for different parts but contract is for supplying full machine?
5. Whether parts of Chaff cutter machine can be delivered with delivery Challan if there is contract is for supplying full machine and final invoice can be issued on completion of supply of full machine?

4. ELIGIBILITY OF THE APPLICATION FOR ADVANCE RULING

The Section 97(2) of the Central Goods and Services Tax Act, 2017, read with Section 97(2) of the Punjab Goods and Services Tax Act, 2017, provides for the issues on which advance ruling can be sought.

97(2) The question on which 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.*

It is observed that the queries of the applicant in para III is related to the issues “*Classification of any goods or services or both*” & “*Determination of time and value of supply of goods or services or both*”. Hence, The questions raised by the applicant falls under the ambit of Section 97(2) of the CGST Act, 2017, read with Section 97(2) of the PGST Act, 2017. Hence, the application of the applicant is eligible for a ruling by the Punjab State Advance Ruling Authority.

5. SUBMISSIONS BY THE APPLICANT: -

The applicant has made the following submissions at the time of filing of advance ruling application: -

1. The Chaff Cutting machine is covered under the HSN 8433 and rate of Tax is 12%.
2. The Chaff cutting machine is used for cutting of Chaff, hay and other agriculture produces and same are used for feeding of livestock.
3. In HSN 8433 grass cutting and hay cutting machine are classified and purpose of Chaff cutting machine are same as machines classified in HSN 8433. Therefore chaff cutting machine should be classified in HSN 8433..

View of Applicant on Question No 2:

1. The Parts of Chaff Cutting machine is covered under 8433 and rate of Tax is 12%.

2. The Parts of Chaff cutting machine are also supplied separately if demanded by any customer the HSN 8433 and rate of Tax is 12%. same is affixed with their existing Chaff Cutting Machine.
3. In HSN 8433 parts of grass cutting and hay cutting machine are classified and purpose of parts of Chaff cutting machine are same as machines classified in HSN 8433. Therefore parts of chaff cutting machine should be classified in HSN 8433.

View of Applicant on Question No 3:

1. The time of supply of machinery is at the time of delivery of full machinery and not at the time of delivery of parts separately.
2. As per section 12 of Central Goods and Service Tax Act 2017, Time of supply of goods shall be earlier of the following dates, namely:
 - (a) The date of issue of invoice by the supplier or the last date on which he is required to, under sub section (1) of section 31, to issue the invoice with respect to the supply; or
 - (b) The date on which supplier receives the payment with respect to the supply:

Section 31 sub section (1) reads as under:

A registered person supplying taxable goods shall, before or at time of,

- (1) Removal of goods for supply to the recipient, where the supply involves movement of goods; or Delivery of goods or making available thereof to the recipient,. In any other case, issue a tax invoice showing the description, quantity and the value of goods, the tax charged thereon and such particulars as may be prescribed:

Provided that the government may on the recommendation of the council by notification specifies the category of goods or supplies in respect of which tax invoice shall be issued, with in such time and in such manner as may be prescribed:

And section 31 sub section (4) reads as under:

In case of continuous supply of goods, where successive statement of accounts or successive payments are involved, the invoice shall be issued before or at the time of each such statement is issued or, as the case may be, each such payment is received.

And Proviso of sub section 2 of section 16 read as under:

Provided that where the goods against an invoice are received in lots or installments, registered person shall be entitled to take credit upon receipt of the last lot or installment.

By combined reading of section 12, 31 and 16 It can be concluded that time of supply is at the time of delivery of full machine and not on delivery of parts of such machine or time of receipt of payment whichever is earlier.

View of Applicant on Question No 4:

1. The Chaff Cutting Machine should be classified and charged at the rate applicable on such machine and not as per rate applicable on parts.
2. There is contract of supply of full machine and not on supply of parts so machine should be classified at the rate applicable on machine and not on rate applicable on parts.
3. The invoice are raised on parts as and when delivered for ease of accounting and follow up purpose and same has not any impact on classification and rate of tax of Full Chaff Cutting Machine.

View of Applicant on Question No 5:

1. The parts of machine can be delivered on delivery challan and invoice should be raised after delivery of full machine.
2. As the contract is for supplying full machine so parts can be delivered on Challan.

3. As per Rule 55 of Central Goods and Service Tax Rule 2017

Transportation of goods without issue of invoice (1) For the purpose of

(a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,

(b) Transportation of goods for job work,

(c) Transportation of goods for reasons other than by way of supply, or

(d) Such other supplies as may be notified by the Board,

For consigner may issue delivery Challan, serially numbered not exceeding sixteen characters, in one or multiple series, In lieu of invoice at the time of removal of goods for transportation.

4. The supply is not of parts of machine but supply is of full machine therefore parts of machine can be delivered with delivery challan as per Rule 55.

6. SUBMISSIONS BY THE JURISDICTIONAL AUTHORITY: -

The jurisdictional Assistant Commissioner CGST Division, Batala vide letter no. I/560615/2022, dated 10.02.2012 furnished their comments wherein they inter alia submitted as under: -

1. What is the classification and rate of Goods and Services Tax for Chaff Cutter Machine, which is used in cutting of chaff, hay and agriculture produce for fodder of live stocks?

The Chaff Cutting machine is covered under the HSN 8433 and rate of Tax is 12%.

2. What is the classification and rate of Goods and Services Tax for Parts of Chaff Cutter Machine. The names of parts are Wheel, Handle and stand. Such parts are assembled to manufacture Chaff Cutter Machine,?

The Parts of Chaff Cutting machine is covered under the HSN 8433 and rate of Tax is 12%

3. What is time of supply of machinery, if machinery is manufactured and transported in parts for ease of transportation and to save manufacturing cost and assembled in purchaser location?

a. the date of issue of invoice by the supplier or the last date on which he is required, under section 31, to issue the invoice with respect to the supply; or

b. the date on which the supplier receives the payment with respect to the supply: It is clear from the section 31, sub section (1) of the Act that an invoice issued by the supplier under section 31 whether belonging to the full machinery or parts thereof the date of invoice is the time of supply.

The parts of the Chaff Cutting Machine are also independently marketable and not exclusive & the same supplied under section 31 are liable to be taxed on the date of invoice.

4. What is the classification and rate of Goods and Services Tax for Chaff Cutter Machine, which is supplied in parts for ease of transportation and to save manufacturing cost and different invoice is issued for different parts but contract is for supplying full machine?.

The rate of GST for Chaff Cutting Machine is 12% falling under heading 8433. Further, rate of GST for parts of Chaff Cutting Machine is also 12%. The party's view that as per sub section 2 of section 16, the time of supply is at the time of delivery of full machine and not on delivery of parts of such machine or time of receipt of payments whichever is earlier as provided under section 12 and section 31 of the Act are not acceptable as proviso under sub section 2 of section 16 lays down the condition for availment of input tax credit on the receiver of goods and do not exempt outward supplier from payment of duty in respect of clearance of machinery in full or parts thereof under section 31.

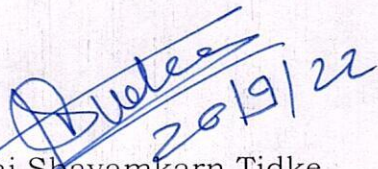
5. Whether parts of Chaff cutter machine can be delivered with delivery Challan if there is contract is for supplying full machine and final invoice can be issued on completion of supply of full machine? The party's view that parts of machine can be delivered on delivery challan and invoice should be raised after delivery of full machine is not acceptable. Party has referred Rule 55 of Central Goods and Service Tax Rule 2017 for

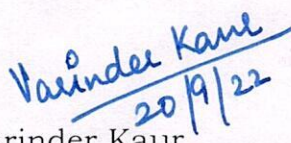
transportation of goods without issue of invoice, which is not applicable in the subject case.

7. DISCUSSIONS AND FINDINGS:

The requisite fee for filling Advance Ruling application is Rs. 10,000/- (Rs. 5,000 each for CGST and SGST), but the applicant has deposited only Rs. 5,000/- under SGST Act. Despite giving multiple opportunities, the applicant has not deposited the required pending fee of Rs. 5,000 under GCST Act. Thus, the application is hereby filed without any ruling.

Note: The provisions of CGST Act, 2017 and PGST Act, 2017 are almost same except a few provisions. Unless specific reference is made to such dissimilar provisions in the two acts, reference to provisions of CGST Act, 2017 would mean a reference to the same provisions of PGST Act, 2017 and vice versa.


Viraj Shayamkarn Tidke
Member, SGST


Varinder Kaur
Member, CGST

Through Regd. Post

To

M/s Bhawani Founders & Engg Works,
Near Gali Swastika Foundary,
Batala-143505

No.PB/AAR/2022/158-164

Dated: 29/9/2022

Copy to:

1. The Special Secretary, Goods and Service Tax Council, 5th floor, Tower-II, Jeevan Bharti Bldg., Connaught Place, New Delhi w.r.t. F. No. 193/Advance Ruling/ GSTC/2017 dated 01.05.2018.
2. The Commissioner of State Taxes, Punjab.
3. The Commissioner, CGST, Ludhiana, GST Bhawan, Rishi Nagar, Ludhiana.
4. The Commissioner, CGST, Jalandhar, camp office GST Bhawan, Rishi Nagar, Ludhiana.
5. The Assistant Commissioner of State Taxes, Gurdaspur.
6. The Assistant Commissioner, CGST Division, Batala.