



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present:

1. Sri. D. Ramesh, Additional Commissioner of State Tax (Member)
2. Sri. M. Sreekanth, Joint Commissioner of Central Tax (Member)

AAR No.11/AP/GST/2020 dated:05-05-2020

1	Name and address of the applicant	M/s. Pulluri Mining & Logistics Private Limited, Survey Nos 121,Hussainapuram, Banaganapalle,Kurnool-518124, Andhra Pradesh.
2	GSTIN	37AAHCP3913F2ZG
3	Date of filing of Form GSTARA-01	05.12.2019
4	Date of Personal Hearing	19.12.2019
5	Represented by	M Ramachandra Murthy,CA
6	Jurisdictional Authority –Centre	Superintendent, Nandyal-II Range, Kurnool CGST Division.
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(C) Determination of time and value of supply of goods or services or both

ORDER

(under sub-section (4) of section 98 of Central Goods And Service Tax Act, 2017 and under sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (herein after referred to CGST Act and APGST Act respectively) by M/s Pulluri Mining & Logistics Private Limited, (herein after referred to as applicant), registered under the Goods & Services Tax



2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

3. Brief Facts of the case:

M/s. Pulluri Mining & Logistics Private Limited, (herein referred to as applicant), holding GSTIN: 37AAHCP3913F2ZG, having registered address at Sy.No.121, Hussainapuram, Banaganapalle, Andhra Pradesh-518124 are registered taxable person. The applicant is a service provider rendering support services relating to mining. The applicant has received work through order No.7300002808/1000/2019-20, Dt:27-7-2019 from M/s. Sree Jayajyothi Cements Private Limited (herein after referred to as 'service recipient') for executing mining contract at Srinagar, Yanakandla Village, Banaganapalle Mandal, Kurnool District, Andhra Pradesh in the nature of raising of Limestone (excavation) at Yanakandla Limestone Mines, and other such mines in Andhra Pradesh and to deliver Limestone to Yanakandla Limestone Hopper belonging to Sree Jayajyothi Cements Private Limited. The above works are to be carried out by using the listed equipments and vehicles. The listed heavy equipment & vehicles will be deployed for exclusive usage of this contract and shall not move out of the service recipient premises unless it is essential for performance of the contract. HSD oil required for operating the above heavy equipment & vehicles will be under the scope of the service recipient and HSD oil is issued free of cost from service recipient's storage tank. The applicant presented copy of the work order in this regard.

4. Questions raised before the authority:

The applicant seeks advance ruling on Whether the HSD Oil issued free of cost by the service recipient to the applicant would form part of value of supply of service by the applicant as per Section 15 of the CGST Act, 2017? And more particularly under sub-section (2) (b) of Section 15 of the CGST Act".

On Verification of basic information of the applicant, it is observed that the applicant falls under Central jurisdiction, i.e. Superintendent, Nandyal-II Range, Kurnool CGST Division. Accordingly, the application has been forwarded to the jurisdictional officers and a copy marked to the State tax authorities to offer their remarks as per the Sec. 98(1) of CGST /APGST Act 2017.



In response, remarks are received from the jurisdictional officer concerned stating that there are no proceedings lying pending or passed relating to the applicant on the issue, for which the Advance Ruling sought by the applicant.

5. Applicant's interpretation of Law and Facts:

The applicants' contention is that the value of HSD Oil need not be included in the value of supply and it need not pay GST on the value of HSD oil being supplied by the service recipient in relation to the said supply of service.

The applicant's statement of interpretation of law is based on Section 9 and Section 15 of the CGST Act

The applicant's claim is that as per the work order issued by the service recipient, HSD oil is required for heavy equipment & vehicles will be under the scope of the service recipient and issued on free of cost basis from service recipient's storage tank. As HSD oil required is issued free of cost, they have quoted comprehensive price for rendering the above specified services excluding the said fuel cost.

The applicant is of view that the value of HSD Oil need not be included in the value of supply and it need not pay GST on the value of HSD oil being supplied by the service recipient in relation to the said supply of service. The phrase 'any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply' appearing in Section 15 (2) (b) of the GST Act shall be understood as the 'consideration' which has been included in the total price payable to the service provider, but for various reasons, which has been incurred by the recipient. Section 15(2) (b) would be applicable where the total contract price is inclusive of the value of HSD but has been supplied by the service recipient on cost recovery basis. In a situation where the service recipient has supplied the goods on free of cost basis, the title in such goods had not been passed on to the service provider and hence the service provider has no right to deal with such HSD as he likes. For each drop of HSD supplied to the service provider, account has to be rendered to the service recipient because the title in HSD always rests with the service recipient. Service recipient is not paying any consideration to the service provider on account of HSD, because service provider is not supplying HSD. Hence the value of HSD need not be included in the value charged by the applicant in circumstances of the case. Section 15 (2) (b) of the GST Act reads as follows:-

"(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both."

In addition to the above, the applicant further stated that, what has to be included is the amount that the supplier is liable to pay in relation to such supply but which has been paid by the recipient. In this case, applicant, who is the service provider, is not liable to pay the cost of HSD because applicant has not purchased HSD from any other person. There is no liability to pay the cost of HSD on the part of the applicant.



6. Record of Personal Hearing:

The authorized representatives of the applicant, Sri M Ramachandra Murthy, tax consultant appeared for Personal Hearing on 19.12.2019 and reiterated the submission already made in the application.

7. Discussion and findings:

We have examined the issues raised in the application with reference to the relevant provisions of the Act and the contractual obligation of the applicant.

Section 7 (1) of CGST Act, 2017 reads as under:-

“For the purposes of this Act, the expression “supply” includes--

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;”

Section 15 (2) of CGST Act, 2017 stipulates as under:-

(2) The value of supply shall include---

a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;”

The definition of consideration u/s.2 (31) of the CGST Act, 2017 has been stipulated as under:-

“Consideration” in relation to the supply of goods or services or both includes--

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;



(b) the monetary value of any act or for bearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

In the instant case, the service recipient i.e., M/s. Sree Jayajyothi Cements Private Limited is providing diesel to the equipments and vehicles used by the applicant for executing the mining contracts at different places stipulated in the work order. Diesel so provided by the service recipient to the applicant for use in the equipments and vehicles of the applicant forms an important and integral component of this business process, without which the process of excavation of limestone at different mines, transportation and delivery of Limestone to Yanakandla Limestone Hopper belonging to the recipient. As per Section 15 (2) (b) of CGST Act, the value of supply includes any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

Thus from the above legal provisions discussed above, it gets amply clear that any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both is includible in value.

RULING

Question: Whether the HSD Oil issued free of cost by the service recipient to the applicant would form part of value of supply of service by the applicant as per Section 15 of the CGST Act, 2017? And more particularly under sub-section (2) (b) of Section 15 of the CGST Act”.

Answer: The HSD Oil issued free of cost by the service recipient to the applicant would form part of value of supply of service by the applicant.

**Sd/- D.RAMESH
(MEMBER)**

**Sd/-M.SREEKANTH
(MEMBER)**

//t.c.f.b.o//


Assistant Commissioner(ST)
Assistant Commissioner (State Tax)
C/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.



TO

1. M/s. Pulluri Mining & Logistics Private Limited, Survey Nos 121, Hussainapuram, Banaganapalle, Kurnool-518124, Andhra Pradesh. **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Nandyal-II, Kurnool Division. **(By Registered Post)**

2. The Superintendent, Central Tax Nandyal –II Rang, CGST Kurnool Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)

2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

