



**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. A. Syam Sundar, Additional Commissioner of Central Tax (Member)

AAR No. 22 /AP/GST/2020 dated: 23.11.2020

1	Name and address of the applicant	M/s. Kakatiya Cement Sugar & Industries Ltd, D.No.1-10-140/1, Gurukrupa, Ashoknagar, Hyderabad, Telangana.
2	GSTIN	37AABCK1868J1Z9
3	Date of filing of Form GST ARA-01	12.06.2020
4	Date of Virtual Hearing	29.10.2020
5	Represented by	Sri Balivada Vizia Sekhar
6	Jurisdictional Authority –Central	The Superintendent of Central Tax, Jaggayapeta Range, CGST Amaravathi Division.
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	The question doesn't fall under Sec 97(2).

ORDER

(Under sub-section (2) of Section 98 of Central Goods and Services Tax Act, 2017 and sub- section (2) 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 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Kakatiya Cement Sugar & Industries Limited (hereinafter 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:

1. M/s. Kakatiya Cement Sugar & Industries Limited, (hereinafter referred to as Applicant), is into manufacturing of Cement, Sugar and Power and it's bio products. The manufacturing facilities are in Telangana State. The company procures the raw material from lime stone mines in Andhra Pradesh and send it to factory in Telangana for manufacturing of cement. Sugar is manufactured by procuring sugar cane from local cane farmers. Power plant is a Co-gen plant, operating during cane crushing period only with the help of biogases (Trash of Sugar Cane).

2. The applicant stated that in the year 2017-18 i.e., at the early stages of GST implementation, due to lack of awareness and guidance, Company paid GST on Lime Stone Royalty at Telangana (where Cement factory is located) instead of at Andhra Pradesh (where mines are located). Both have different registrations. Hence it is requested for appropriation of the tax paid at Telangana.

3. GST is liable to pay @18 % under RCM on Lime Stone Royalty whereas GST is set off @ 5 % on transfer of Lime Stone from Mines (A.P) to Cement Factory (T.G). So there has been monthly accumulation of GST. The applicant intends to get refund of the accumulated amount.

4. Questions raised before the authority:

The applicant had filed an application in form GST ARA-01, Dt:12.06.2020, by paying required amount of fee for seeking Advance Ruling on the following issues, as mentioned below:

1. Can the tax paid at wrong jurisdiction be appropriated?
2. Refund of accumulated GST paid on Lime Stone Royalty under RCM.



On Verification of basic information of the applicant, it is observed that the applicant falls under Central jurisdiction of the Superintendent of Central Tax, Jaggayapeta Range, CGST Amaravathi Division. Accordingly, the application has been forwarded to the jurisdictional officer 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 State 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 is sought by the applicant.

5. Applicant's Interpretation of Law and Facts

The Company manufactures Cement and the plant is located in Telangana while the lime stone mines are located in Andhra Pradesh (GST No: 37AABCK1868J1Z9). It is pertinent to note that the Cement Plant and Lime Stone Mines are adjacent to each other. Consequent to bifurcation of the combined Andhra Pradesh, the location of mines fall under Andhra Pradesh jurisdiction while the cement comes under Telangana jurisdiction.

The Company had paid IGST at 18% on Royalty Charges for the year 2017-18 in Telangana with bona fide intention that the Company is required to make the payment in Telangana since the plant is located in Telangana. However, subsequently upon consultations and discussions with various professionals and consultants on the relevant subject, clarity emerged to the effect that the GST payment shall, in fact, be remitted in Andhra Pradesh (GST No: 37AABCK1868J1Z9). Having realized the correct position, the Company, has been making GST payments in Andhra Pradesh since April, 2018.

6. Virtual Hearing:

Sri Balivada Vizia Sekhar, the authorized representative of the applicant appeared for Virtual Hearing on 29.10.2020 and reiterated the submission already made in the application.

7. Discussion and Findings:

We have gone through the facts of the case. At this stage, our discussion and findings is for admission or other wise of the application under Section 98(2) of CGST Act, 2017. The applicant can seek for Advance Ruling for any of the questions falling under Section 97(2). The relevant extract of the CGST Act, 2017 is reproduced here under for the sake of clarity.

Section 97(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,
- (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.


But the applicant sought Advance Ruling on questions of 'appropriation of taxes' and 'refund' which is outside the purview of the Advance Ruling Authority as per Section 97(2) of CGST Act, 2017.

Hence the application is not admitted under Sec 98 (2) of CGST Act, 2017 and APGST Act, 2017.

Sd/-D. Ramesh
(MEMBER)

Sd/-A. Syam Sundar
(MEMBER)

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


Deputy Commissioner (ST)
DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

TO

- 1) M/s. Kakatiya Cement Sugar & Industries Ltd, D.No.1-10-140/1, Gurukrupa, Ashoknagar, Hyderabad, Telangana **(By Registered Post)**.

Copy to

1. The Assistant Commissioner of State Tax, Nandigama Circle, Vijayawada-I Division. **(By Registered Post)**
2. The Superintendent of Central Tax, Jaggayapeta Range, CGST Amaravathi Division, Vijayawada. **(By Registered Post)**



Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada.
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035 (A.P) **(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.

