

**AUTHORITY FOR ADVANCE RULING – CHHATTISGARH**  
**3<sup>rd</sup>& 4<sup>th</sup> Floor, VanijyikKar GST Bhawan, North Block Sector-19,**  
**Atal Nagar, District-Raipur (C.G.) 492002**  
**Email ID – gst.aar-cg@gov.in**

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

Members Present are

Smt. Sonal K. Mishra  
Joint Commissioner  
O/o Commissioner, State Tax  
(CGGST), Raipur, Chhattisgarh.

Shri Shravan Kumar Bansal  
Additional Commissioner,  
O/o Principal Commissioner,  
CGST & Central Excise, Raipur (C.G)

**Subject :-** Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 sought vide Application dated 16.1.2023 (received on 17.1.2023) from M/s SBT Textiles Private Limited, Plot no. 619 and 612 B, Near Narayani Rail, Industrial Area, Urla, Raipur, Chhattisgarh, 492001, holding GSTIN 22AAICS9568G3ZX (here in after referred to as the applicant), seeking advance ruling regarding transfer of unutilized balance in E-credit ledger on merger of distinct persons as specified in Section 25(4) i.e., on merger of two distinct persons within same State having same PAN in terms of Section 18(3) of CGST Act, 2017 and further regarding transfer of unutilized balance in E-credit ledger between distinct persons as specified in Section 25(4) of CGST Act, 2017 i.e., from one GSTIN to another GSTIN in same State with same PAN, without following the process of merger.

**Read :-** Application 16/17.1.2023 from M/s SBT Textiles Private Limited, Plot no. 619 and 612 B, Near Narayani Rail, Industrial Area, Urla, Raipur, Chhattisgarh, 492001, having GSTIN 22AAICS9568G3ZX.

**PROCEEDINGS**

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

F.No.SGST/AAR/01/2023/

Raipur Dated 13-04-2023

M/s SBT Textiles Private Limited, Plot no. 619 and 612 B, Near Narayani Rail, Industrial Area, Urla, Raipur, Chhattisgarh, 492001, holding GSTIN 22AAICS9568G3ZX has furnished an application in form ARA-01 dated 16/17.1.2023, duly filled application with all documents received on 7.2.2023 under section 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling regarding transfer of unutilized balance in E-credit ledger on merger of distinct persons as specified in Section 25(4) i.e., on merger of two distinct persons within same State having same PAN in terms of Section 18(3) of CGST Act, 2017 and further regarding transfer of unutilized balance



*(Signature)*



in E-credit ledger between distinct persons as specified in Section 25(4) of CGST Act, 2017 i.e., from one GSTIN to another GSTIN in same State with same PAN, without following the process of merger.

**2. Facts of the case: -**

2.1. M/s SBT Textiles Private Limited, Plot no. 619 and 612 B, Near Narayani Rail, Industrial Area, Urla, Raipur, Chhattisgarh, 492001, the applicant is a private limited company incorporated under the Companies Act, 1956 with registrar of companies and having CIN U00171CT2004PTC016995 and having PAN AAICS9568G and registered under GST in the state of Chhattisgarh vide GSTIN -22AAICS9568G1ZZ and 22AAICS9568G3ZX, respectively for their two units i.e., Unit-I and Unit-II.

2.2 The applicant in their application has stated that by virtue of Section 25(4) of CGST, Act 2017 both the above registration i.e., Unit-I and Unit-II having GSTIN -22AAICS9568G1ZZ and 22AAICS9568G3ZX respectively shall be treated as establishments of distinct persons for the purposes of the CGST Act, 2017 and hence are considered as separate registered person in accordance with Section 2(94) of CGST Act, 2017. Now the company wishes to merge both the above units by transfer all the assets and liabilities of unit-II with unit-I and for this purpose desirous to know whether the unutilized balance of ITC can be transferred from one GSTIN to another, by virtue of section 18(3) of CGST Act, 2017 read with rule 41 of CGST Rules, 2017(as inserted by Notification no. 10/2017-CT dated 28.6.2017. Further that the company is desirous to know about whether the unutilized balance of ITC can be transferred from one GSTIN to the other even without following the process of merger.

Accordingly, the questions on which ruling has been sought by the applicant is as under: -

- (i) *Whether unutilized balance of E-credit ledger can be transferred on merger of distinct persons as specified in Section 25(4) i.e., on merger of two distinct GSTINs of same PAN within State in terms of section 18(3) of CGST Act, 2017?*
- (ii) *Whether unutilized balance of E-credit ledger can be transferred between distinct persons as specified in section 25(4) i.e., from one GSTIN to another GSTIN in same State within same PAN without following the process of merger?*

**3. Contentions of the applicant: -**

The applicant has in the instant application furnished their interpretation of law and / or facts in respect of the aforesaid question(s) which can be summarized as under: -

that, as per Section 18(3) of CGST Act,2017, where there is change in the constitution of a registered persons on account of sale, merger, demerger, amalgamation lease or transfer of the business





with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the ITC which remains unutilized in his electronic ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

- ii. That, Rule 41 of CGST Rules, 2017 prescribes the manner of transfer of credit on sale, merger, amalgamation, lease or transfer of a business.
- iii. That, as per section 2(94) of CGST Act, 2017 registered person means a person who is registered under section 25 but does not include a person having a Unique Identity number.
- iv. That, as per section 25(4) of CGST Act, 2017 a person who has obtained registration whether in one State or more than one State shall in respect of such registration be treated as distinct persons for the purpose of this Act.
- v. That, from the concurrent reading of above provisions it can be concluded that where a company has obtained more than one registration in a State for its different businesses under the same PAN, then all such registration will be treated as separate registered person for the purpose of GST and therefore transfer of unutilized balance of ITC from one GST registration to another registration with same PAN should be allowed by virtue of above provisions of Section 18(3) read with Rule 41.
- vi. Consequently, on merger (if any) the unutilized balance of E-credit ledger of Unit-II should be allowed to be transferred to Unit-I.
- vii. Rule 41A specifically allows transfer of credit on obtaining separate registration for multiple place of business within a State in the ratio of value of assets held by them at the time of registration by filing form ITC-02A.
- viii. Further Rule 87(14) as inserted vide Notification no. 14/2022-CT dated 5.7.2022 allows transfer of unutilized balance in CGST and IGST cash ledger between distinct persons as specified in Section 25(4)/25(5) of CGST Act, 2017.
- ix. That, by virtue of Rule 87(14), the unutilized balance of E-cash ledger are specifically allowed to be transferred between establishment of distinct persons i.e. establishment having different GSTIN within same PAN even without merger of both the GSTINs.
- x. That, similarly the unutilized balance of E-credit ledger should also be allowed to be transferred between establishment of distinct persons i.e., establishment having different GSTIN within same PAN even without merger of both the GSTINs.

#### 4. Personal Hearing: -

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant in person, as requested by them and accordingly, Shri Vikram Jain, Director of the Applicant along with Shri Nitin Goyal, CA and authorized representative of the Applicant, M/s SBT Textiles Pvt. Ltd., Plot no. 619 and 612 Near Narayani Rail, Industrial Area, Urla Raipur Chhattisgarh 492001 having GSTIN 22AAICS9568G3ZX attended the personal hearing in person in the matter before us on 15.3.2023. He submitted that they are registered under GST in the State of Chhattisgarh vide GSTIN 22AAICS9568G1ZZ and GSTIN 22AAICS9568G3ZX





for their two units namely Unit-I and Unit-II. Further that they wish to merge the said two units by transfer of all the assets and liabilities of Unit -II with Unit-I or vice versa and that they are seeking advance ruling as to (i) Whether unutilized balance of E-credit ledger can be transferred on merger of distinct persons as specified in Section 25(4) i.e., on merger of two distinct GSTINs of same PAN within State in terms of section 18(3) of CGST Act, 2017? (ii) Whether unutilized balance of E-credit ledger can be transferred between distinct persons as specified in section 25(4) i.e., from one GSTIN to another GSTIN in same State within same PAN without following the process of merger?

They reiterated their point of view in the matter as made in their ARA01 and thus requested for a ruling in the matter.

**4.1** The jurisdictional Deputy Commissioner, Division-I, CGST Raipur under his letter CGST/AAR/D-I/RPR/2022-23 /1200 dated 21.3.2023 opined that the issue of transfer of un-utilized balance of E-credit ledger on merger to two distinct units stands clarified vide CGST circular no. 133/2020 dated 23.3.2020 and further that there is no procedure defined for transfer of unutilized balance of E-credit ledger between distinct persons and hence not eligible for transfer.

**The legal position, analysis and discussion: -**

**5.** At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017.

**6.** Section 96 of CGST Act, 2017 on Authority for advance ruling, stipulates as under:

*Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.*

Section 97(2) of CGST Act, 2017 stipulates that: -

*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.

Further section 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: –*The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter 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.*

Thus, in view of the above section 103 of CGST Act, 2017, the ruling so sought by the Applicant would be binding only on the Applicant and on the concerned officer or the jurisdictional officer as stipulated above.

7. We have gone through the submissions made by the applicant and have examined the contentions raised by them. At the outset, before getting in to merits of the issue raised by the applicant, we would first like to examine regarding the admissibility of same under law i.e., as to whether the issues on which ruling is sought by the applicant is admissible under law.

The applicant has sought ruling as to whether unutilized balance of E-credit ledger can be transferred on merger of two distinct GSTINs of same PAN within State in terms of section 18(3) of CGST Act, 2017 and secondly whether unutilized balance of E-credit ledger can be transferred between distinct persons as specified in section 25(4) i.e., from one GSTIN to another GSTIN in same State within same PAN without following the process of merger.

8. We find that the points raised by the applicant in the instant issue in hand is beyond the scope of the advance ruling mechanism in as much as Section 97(2) of CGST Act, 2017 spells out the issues on which advance rulings can be sought, as under: -

*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.*





8.1 Thus, it gets abundantly clear that any person who is registered under GST or desirous of obtaining a registration under GST may apply for an advance ruling and that the question on which an advance ruling is sought for, may be with respect to any of the issues referred to in Section 97(2) ibid which are in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. In other words, it is the supplier of goods or services or both who can seek an advance ruling on any of the issues specified in clauses (a) to (g) of Section 97(2) above.

9. We find that the applicant in the instant application in form ARA-01 has mentioned that the issue raised by them fall under applicability of a Notification issued under the provision of this Act and also under admissibility of input tax credit of tax paid or deemed to have been paid.

9.1 On perusal of the issues raised by the applicant we find that in the instant case there is neither any issue involving applicability of a Notification issued under the provision of Act nor this is a case regarding admissibility of input tax credit of tax paid or deemed to have been paid. Here the issue being raised by the applicant is admissibility of transfer of unutilized balance of Input Tax Credit in E-credit ledger and not regarding the admissibility of Input Tax Credit of tax paid. In other words, in the instant case in hand eligibility/ admissibility or otherwise of such Input Tax Credit is not the issue, as stipulated under Section 97(2)(d). Thus, we come to the considered conclusion that as Section 97(2)(d) specifies about the admissibility of input tax credit of tax paid and not regarding admissibility of transfer of unutilized balance of Input tax credit lying in E-credit ledger, the issues raised by the applicant in the instant ARA01 is out of the scope of advance ruling and accordingly their application merits rejection.

10. Having regard to the facts and circumstances of the case and discussions as above, we pass the following order: -

#### ORDER

**(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)**

F.No.SGST/AAR/01/2023/

Raipur Dated 13-04-2023


The ruling so sought by M/s SBT Textiles Pvt. Ltd., Plot no. 619 and 612 Near Narayani Rail, Industrial Area, Urla Raipur Chhattisgarh 492001 having GSTIN 22AAICS9568G3ZX, the applicant in their ARA-01 application on the issue of transfer to unutilized balance of Input tax credit lying in E-credit ledger is not maintainable. Accordingly, the application filed by the applicant for advance ruling is rejected, being out of the scope of "advance ruling" as stipulated under Section 97(2) of CGST Act, 2017.



  
Sonal K. Mishra  
(Member)

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MEMBER  
ADVANCE RULING AUTHORITY  
CHHATTISGARH, RAIPUR

  
Shrawan Kumar Bansal  
(Member)

**TRUE COPY**

  
MEMBER  
ADVANCE RULING AUTHORITY  
CHHATTISGARH, RAIPUR