

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd & 4th Floor, Vanijvik Kar GST Bhawan, Sector-19, Atal Nagar
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. Kalpana Tiwari
Joint Commissioner
O/o Commissioner, State Tax
Chhattisgarh, Raipur

Shri Rajesh Kumar Singh,
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur.

Subject:- Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 :-
Whether the cost of diesel provided by the consignee to the applicant is includible or excludible in the freight amount, while charging GST on transportation of cement/clinkers of M/s Shree Raipur Cement, by the applicant.

Read:- Application dated 28-12-2018 from Shri Navodit Agarwal, 0003/102, Dr. Rajendra Prasad Ward, Pithora (C.G) 493551.

PROCEEDINGS

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

No.STC/AAR/10/2018

Raipur, Dated ..2.6.../03/2019

The applicant M/s Shri Navodit Agarwal, 0003/102, Dr. Rajendra Prasad Ward, Pithora, 493551, GSTIN- 22BHEPA1174R1ZE has filed the application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 requesting advance ruling as under :-

- i. Do we need to charge GST on Freight amount excluding diesel cost or on total amount which is inclusive of diesel cost?

2. Facts of the case:-

- I. The Applicant, Shri Navodit Agrawal is a transporter in few cement companies and is engaged in transporting Cement/Clinkers of Shree Raipur Cement, Baloda Bazaar.



Signature

Pursuant to the oral agreement between the aforesaid parties, Shree Raipur Cement proposed that while transporting their cement/ clinkers, diesel required would be provided by Shree Raipur Cement. Applicant seeks clarification as to whether diesel cost in respect of transportation is to be included or excluded while charging GST on freight amount.

- II. In this regard, the Applicant seeks clarification whether such supply of diesel by the recipient is to be added to the freight amount charged by the applicant or not.

3. Contentions of the applicant:-

- I. The applicant is a transporter in few cement companies of Chhattisgarh. They are also to commence transportation for Shree Raipur Cement, Baloda Bazar, C.G.
- II. Shree Raipur Cement has moved a proposal that while transporting their cement/clinker they will provide the required diesel for transportation of the same and that the applicant need to charge them freight excluding diesel cost and hence GST will also be levied on taxable amount i.e. the amount excluding the diesel cost.
- III. The applicant went through certain valuation rules of GST Act, wherein it was mentioned that if the service recipient provides any input goods to service providers while rendering the service, the cost of that goods will be included in taxable value of services provided by the service provider and that the service receiver needs to raise separate bill to service provider for that input goods.
- IV. The applicant has expressed their view that they need to charge GST to Shree Raipur Cement, C.G on total amount including diesel cost and Shree Raipur Cement will raise separate invoice for diesel upon them.

4. Personal Hearing:-

In keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant and accordingly, Shri Aditya Mittal (CA) on being authorized by the applicant, appeared before us for hearing on 12.03.2019 and reiterated his contention. They also furnished a written submission dated 12.03.2019, which has been taken on record.

The applicant sought advance ruling on whether to charge GST on freight amount excluding diesel cost or on total freight which is inclusive diesel cost.

5. The legal position, analysis and discussion:-

- 5.1 The provisions for implementing the CGST Act and CGGST Act, 2017 are similar. Now we sequentially discuss the provisions that are applicable in the present case.



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5.2 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, license, 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;

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

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

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.

This cannot cover free inputs or services supplied by recipient, as only 'amount' paid by recipient on behalf of supplier is includible. This would be so only where there was contractual liability on supplier to make those supplies.

5.4 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 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, 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 forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods or services, 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 the deposit as consideration for the said supply;



6. In the instant case as has been the contention of the applicant, the service recipient i.e. M/s Shree Raipur Cement, C.G is providing diesel to the vehicles used by the applicant to transport cement/clinker in the course of business of cement by the cement company. Diesel so provided by the service recipient to the applicant for use in trucks/ vehicles of the applicant forms an important and integral component of this business process, without which the process of supply of cement can never get materialized.

7. 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.

In view of the deliberations and discussions as above, we pass the following order:-

ORDER

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

No.STC/AAR/10/2018

Raipur, Dated ..26.../.03../2019

The ruling so sought by the Applicant is accordingly answered as under:-

In confirmation to the views expressed by the applicant, they (applicant) are required to charge GST upon M/s Shree Raipur Cement, C.G on the total amount including the cost of diesel i.e. on the total freight amount inclusive of the cost of diesel so provided by the service recipient i.e. M/s Shree Raipur Cement.

Place: - Raipur

Date:- 26/3/2019

Seal:-



Sd/-
Kalpana Tiwari
(Member)

Sd/-
Rajesh Kumar Singh
(Member)

Copy to:-

1. Applicant,
2. The Commissioner, (CGGST)
3. The Principal Commissioner, (CGST)
4. The Jurisdictional officer, Mahasamund Circle.

TRUE COPY
Kalpana
26/3/19
MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

TRUE COPY
Rajesh
26/3/2019
MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR