

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

BENCH

Mr Brajesh Kumar Singh, Joint Commissioner, CGST & CX
Mr Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Cosmic CRF Limited
Address	19,2 nd floor, Manohar Pukur Road Kolkata-700029
GSTIN	19AAJCC9916D1ZF
Case Number	02 of 2022
ARN	AD1902220033430
Date of application	February 17, 2022
Order number and date	20/WBAAR/2021-22 dated 28.02.2022
Applicant's representative heard	Mr. N.D. Saha, Authorized Advocate Mr. S.Tibrewal, Authorized Advocate

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant submits that he intends to purchase an independent self-sustained unit of Cosmic Ferro Alloys Limited who being the seller for the instant case, is engaged in manufacturing of ferro alloys and Cold Rolled Formed Sections having its factories at Barjora (FERRO Unit) and Singur (CRF Unit) respectively. The entire operations of the Seller are

segmented in the said two units i.e. FERRO Unit and CRF Unit and both the units are functional and running independently.

The proposed transaction is for sale of CRF unit owned by the Seller as a going concern, as a whole which involves transferring of all assets to the purchaser i.e., the applicant and also taking over all the liabilities due and payable as on date of transfer by the purchaser for a lump sum consideration. The unit sought to be sold is fully functional unit independent of the other business/unit of the seller and the transaction envisages transfer of the entire business in respect of CRF unit to the purchaser who is taking over the assets as well as the liabilities of the said CRF unit which includes the employees and their benefit.

1.3 In view of the aforesaid business activities, the applicant has made this application under sub-section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

- Whether the transaction would amount as supply of goods or supply of services or supply of goods and services?
- Whether the transaction would be covered under Entry No 2 of the Notification No.12 /2017- Central Tax Rate dated 28.06.2017?

1.4 In terms of clause (a) of section 95 of the GST Act, an advance ruling means a decision provided by this Authority or the Appellate Authority, as the case may be, on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 of the GST Act in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. In the instant case, the questions on which the applicant seeks advance ruling are not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant rather it is found to be in relation to supply being received by him.

1.5 In view of above, this Authority cannot provide a decision to the applicant in the form of an advance ruling and the instant application is, therefore, liable for rejection. The aforesaid observation has been brought to the notice to the authorised advocates of the applicant in terms of provision laid down in sub-section (2) of section 98 of the Act ibid who have admitted the same.

The application is, therefore, rejected in terms of sub-section (2) of section 98 of the GST Act.

(BRAJESH KUMAR SINGH)
Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member

West Bengal Authority for Advance Ruling