

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADMISSION ORDER NO. GUJ/GAAR/ADM/2018/30
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2018/AR/22)

Date : 30.7.2018

Name and address of the applicant	:	Kandla Port Trust (Deendayal Port Trust) CDC Section, Seva Sadan III, Kandla Kachchh
GSTIN of the applicant	:	24AAALK0046N1Z6
Date of application	:	26.04.2018
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(e) determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing	:	07.06.2018
Present for the applicant	:	Shri Hardik V Thacker, CA

The applicant Kandla Port Trust (Deendayal Port Trust - DPT), set up under the Major Port Trust Act, 1963, has submitted that it owns substantial amount of land at Gandhidham and Adipur location of Kutch District, which has been given on lease to various commercial and other organization for long time period, for which it had entered into lease agreements with various lessees long ago. It is submitted that the applicant revised rate of lease as per directions of Tariff Authority of Major Port, however, many lease holders have challenged the revised rate taking plea that it is against the terms of lease agreement. It is further submitted that some of the lessees are Government of India undertaking and the matter is under litigation at various jurisdictional level. It is also submitted that the applicant is paying GST as per invoices (revised rate) issued out of pocket, though no payment of lease rent and GST is being made by lease holders for disputed amount.

2. The applicant has submitted that there is less probability of settlement of dispute in definite time span and at present crores of rupees have been blocked with respect of GST payment of disputed claims. It is also submitted that there is restriction of revision of return under GST after specified period of time from the end of relevant financial year.

3. The applicant has raised following questions for advance ruling –

- (i) Whether DPT shall continue to pay GST on disputed claim ?
- (ii) How is it possible for DPT to claim refund for GST paid out of pocket, if the matter / dispute concluded in favour of party / lease holder, considering the fact that it may conclude after period of 2 or more years ?

4. We have considered the submissions made by the applicant in application for advance ruling as well as submissions made during the course of personal hearing.

5. Section 97(2) of the Central Goods and Services Tax Act, 2017 (herein after referred to as the 'CGST Act, 2017') and Gujarat Goods and Services Tax Act, 2017 (herein after referred to as the 'GGST Act, 2017') empowers the Advance Ruling Authority to decide the issues, which are as follows :-

- (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.*

No other issue can be decided by the Advance Ruling Authority and therefore the Acts limit the Advance Ruling Authority to decide the issues earmarked for it under Section 97(2).

6.1 The applicant has submitted that they have revised rate of lease land as per directions of TAMP, but many lease-holders, some of whom are Government of India undertaking, have challenged the revised rate. It is also submitted that no payment of lease rent and GST is being made by lease-holders for disputed amount. It is further submitted that there is less probability of settlement of dispute in definite time span and crores of rupees have been blocked with respect to GST payment of disputed claims. Under the circumstances, the applicant has raised a query whether DPT shall continue to pay GST on disputed claims. The applicant has also asked how is it possible for it to claim refund for GST paid out of pocket, if the matter / dispute is concluded in favour of lease holder after period of 2 or more years.

6.2 The issues raised by the applicant do not fall in the category of Section 97(2) of the Acts. Whether the applicant shall continue to pay GST on disputed claims do not require determination of any issue enumerated under Section 97(2) of the Acts. Further, the issue of refund claim in case of conclusion of dispute after more than 2 years, is also not covered by Section 97(2) of the Acts.

7. This authority has been constituted in exercise of the powers conferred by section 96 of the Gujarat Goods and Services Tax Act, 2017, which Act extends to the whole of the state of Gujarat. This authority is a creature of statute and has to function within the legal boundary mandated by the Act. As the issue of 'refund claim' and 'whether the applicant shall continue to pay GST on disputed claims' are not covered by Section 97(2) of the Acts, this authority is helpless to answer the question raised in the application, as it is lacking jurisdiction to decide the issues. The jurisdiction of this authority does not extend to the questions on determination of these issues.

8. The application is therefore rejected without going into the merits of the case, on the issue of lack of jurisdiction, at the stage of admission.

ORDER

The application for Advance Ruling of M/s. Kandla Port Trust (Deendayal Port Trust) (GSTIN 24AAALK0046N1Z6) is rejected, under sub-section (2) of section 98 of the CGST Act, 2017 and the GGST Act, 2017.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad
Date : 30.07.2018.