

**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/2018/32
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2018/AR/25)

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 referred to the provisions of Section 51 of the Central Goods and Services Tax Act, 2017 (herein after referred to as the 'CGST Act, 2017') where under the Government may mandate (i) a department or establishment of the Central Government or State Government, or (ii) local authority; or (iii) Government agencies; or (iv) such persons or category of persons as may be notified by the Government on the recommendations of the council – to deduct tax at the rate of one percent from the payment made or credited to the supplier of taxable goods or services or both, where total value of such supply under the contract exceeds two lakh and fifty thousand rupees. It is submitted this provision is postponed at present. The applicant has submitted that certain terms used in section 51 as mentioned above is not mentioned under CGST Act, 2017, hence the applicant is dilemma whether the provisions of section 51 of the CGST Act, 2017 and corresponding provisions under the Gujarat Goods and Services Tax Act, 2017 (herein after referred to as the 'GGST Act, 2017') will be applicable to it or not.

2. The applicant has raised following question for advance ruling –

Whether Deendayal Port Trust is liable to deduct TDS under section 51 of CGST Act, 2017 from the date of effective of the section 51.

3. 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.

4. Section 97(2) of the CGST Act, 2017 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).

5. The applicant has raised the query whether it is liable to deduct TDS under section 51 of the CGST Act, 2017 and the GGST Act, 2017?

6. The issue raised by the applicant do not fall in the category of Section 97(2) of the Acts. Whether the applicant is liable to deduct TDS under section 51 of the CGST Act, 2017 and the GGST Act, 2017 is 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 'whether the applicant is liable to deduct TDS under Section 51 of the CGST Act, 2017 and the GGST Act, 2017' is 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 issue. The jurisdiction of this authority does not extend to the questions on determination of this issue.

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.