


<b>GUJARAT AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX</b> <b>D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,</b> <b>AHMEDABAD – 380 009.</b>	
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ADMISSION ORDER NO. GUJ/GAAR/ADM/2020/115  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/64)

Date: 30.12.2020

Name and address of the applicant	:	M/s Abdulwahid Shamsudin Malik ( IQRA Traders) 104-1, Nr. Ramkumar Mill, Chhoti Masjid, Chartoda Kabarstan, Gomtipur, Ahmedabad-380021.
GSTIN/ User Id of the applicant	:	24BJBPM1548L1Z6
Date of application	:	26.12.2019
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	:	23.12.2020(Through Online Hearing)
Present for the applicant	:	Not Present

M/s. Abdulwahid Shamsudin Malik (Legal Name), IQRA Traders (Trade Name), 104-1, Nr. Ramkumar Mill, Chhoti Masjid, Chartoda Kabarstan, Gomtipur, Ahmedabad having a GSTIN: 24BJBPM1548L1Z6, has filed an application for Advance Ruling under Section 97 of CGST Act, 2017.

2. M/s Abdulwahid Shamsudin Malik (Legal Name), IQRA Traders (Trade Name) submitted that they are dealing in all type of Scrap including E Scrap. They purchase E Scrap from un- registered person and sell out to recycler. This E- Scrap comes under HSN 85 which is taxed at 5%.

3. Accordingly, the applicant sought the Advance Ruling on the following question:

*“Whether the applicant can purchase the E- Scrap under RCM and pay taxed at 5% being Trader”.*

#### **Personal Hearing**

4. Personal hearing was accorded to the applicant through Virtual Platform (Video conferencing) on 23.12.2020. However neither applicant nor Authorised Representative of the applicant appeared in the Personal hearing.

#### **DISCUSSION & FINDINGS**

5. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by

their representative. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

6. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the GGST Act.

7. On going through the application filed by the applicant, we find that although the said application has been filed in the prescribed format of FORM GST-ARA-01 required as per the provisions of Section 97(1) of the CGST Act, 2017, the fee paid along with their aforementioned application is only Rs.5,000/-. In this regard, we find it imperative to refer to Section 97(1) of the CGST Act, 2017 as well as Rule 104 of the CGST Rules, 2017 which read as under:

**Section 97.** (1) *An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

**Rule 104. Form and manner of application to the Authority for Advance Ruling.** (1) *An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in **FORM GST ARA-01** and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.*

(2) *The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26.*

8. On going through the provisions of Section 97 of the CGST Act, 2017 and Rule 104 of the CGST Rules, 2017, we find that the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 (which is the prescribed format for the said application) and shall be accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the CGST Act, 2017. Similarly, as per Section 97 of the GGST Act, 2017 and Rule 104 of the GGST Rules, 2017, the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the GGST Act, 2017. On a combined reading of the provisions of the aforementioned Section 97 and Rule 104 of both the aforementioned Acts and Rules, we find that the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be accompanied by a fees of Ten thousand rupees (Five thousand rupees as per Rule 104 of the CGST Rules, 2017 + Five thousand rupees as per Rule 104 of

the GGST Rules, 2017).

9. We, therefore, find that although the applicant has filed the application in the prescribed format of GST-ARA-01, they have not paid the fees of Rs.10,000/- as required under the provisions of aforementioned Sections and Rules. Therefore, the instant application is liable for rejection under Section 98(2) of the CGST Act, 2017 for not paying the total fees of Rs.10,000/- i.e. Rs.5,000/- under each head CGST & GGST as required under the provisions of CGST Act and Rules and respective GGST Act & Rules.

10. In view of the facts mentioned above, we do not find it necessary to delve into the details or facts of the issue in hand since the applicant has failed to comply even with the statutory requirements of the provisions of the relevant sections and rules of the CGST Act, 2017/GGST Act, 2017 as well as the CGST Rules, 2017/GGST Rules, 2017 with regard to filing the application of Advance Ruling before the Advance Ruling Authority, thus rendering it an invalid application for Advance Ruling under Section 97(1) of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017.

11. In the light of the aforesaid circumstances, we rule as under:

**R U L I N G**

Instant application filed by M/s Abdulwahid Shamsudin Malik (Legal Name), IQRA Traders (Trade Name), Ahmedabad is hereby rejected under Section 98(2) of the CGST/GGST Act, 2017 being non-maintainable in view of the above discussion.

**(SANJAY SAXENA)**

**(MOHIT AGRAWAL)**

**MEMBER**

**MEMBER**

Place: Ahmedabad

Date: 30.12.2020.