

GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADMISSION ORDER NO. GUJ/GAAR/ADM/2020/122
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/56)

Date: 30.12.2020

Name and address of the applicant	:	M/s. Wiptech Peripheral pvt.ltd., 101, Dwarkadish, Virani Chowk, Tagore Road, Rajkot-360002.
GSTIN of the applicant	:	24AAACW5307K1ZD
Date of application	:	19.10.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	<i>Not Mentioned in the Application</i>
Date of Personal Hearing	:	23.12.2020 (Through online hearing)
Present for the applicant	:	Personal hearing through video Conference.

BRIEF FACTS

The applicant M/s. Wiptech Peripheral pvt.ltd., 101, Dwarkadish, Virani Chowk, Tagore Road, Rajkot-360002 has submitted that they are supplier of Earthing Electrode (HSN Code 72159020) to their clients with the rate of GST 18%. They have further submitted that presently, as per current Solar Rooftop Policy, their clients require Earthing Electrode for Solar Project and are asking charges of GST@5% under HSN Code 85 and have stated that they need valuable confirmation from the Advance Ruling Authorities for further billing/transaction procedure.

DISCUSSION & FINDINGS:

2. 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 at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

3. 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 similar provisions of the GGST Act.

4. On going through the application filed by the applicant we find that the said application has not been filed in the prescribed format required as per the provisions of Section 97(1) of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017. We also find that the applicant has paid an amount of

Rs.5,000/- only along with their aforementioned application. 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.*

5. 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 fee 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).

6. We, therefore, find that the applicant has neither filed the application in the prescribed format of GST-ARA-01 nor paid the required fees of Rs.10,000/- as required as per 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 filing the application in proper FORM GST-ARA-01 and 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.

7. 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.

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

R U L I N G

Instant application filed by M/s. Wiptech Peripheral pvt.ltd., 101, Dwarkadish, Virani Chowk, Tagore Road, Rajkot-360002 is hereby rejected under Section 98(2) of the CGST/GGST Act, 2017 being non-maintainable in view of the above discussion.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 30.12.2020.