



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2019-20/20
(In Application No.: 20/2019-20, dated 02.12.2019)

Name & Address of the Applicant	:	M/s Haryana Power Generation Corporation Ltd., Village Assan, Assandh Road, Assan, Panipat, Haryana.
GSTIN of the Applicant	:	06AABCH4536J1ZM
Date of Application	:	02.12.2019
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	Clause(b)- applicability of a notification issued under the provisions of this Act;
Date of Personal Hearing	:	25.02.2020
Present for the Applicant	:	Sh. D.N Singh (Senior A.O), Sh. Vijay Singh (AAO) and Sh. Krishan Sharma (S.O).

Memo No.: 1060/APR
Dated: 28/8/2020

1. Brief submission of the applicant:

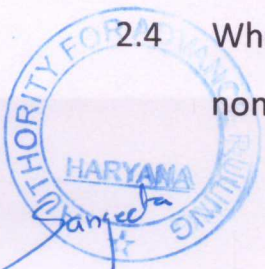
- 1.1 Haryana Power Generation Corporation Ltd. (herein after referred as the applicant) have three Coal based Thermal Power Generation plants in the state of Haryana and is registered under the provisions of the Central Goods and Services Tax Act, 2017 readwith the provisions of the Haryana Goods and Services Tax Act, 2017 vide common GSTIN 06AABCH4536J1ZM.
- 1.2 For power generation in thermal plants, the applicant procures Coals from various Coal companies which levies GST @5% as well as Compensation cess @ Rs. 400/- per MT.
- 1.3 A coal based thermal power plant converts the heat energy of the coal into electrical energy. This is achieved by raising the steam in the boilers, expanding it through the turbine and coupling the turbines to the generators which converts mechanical energy into electrical energy.
- 1.4 When coal burns in thermal plants on a high temperature, transforms the clay minerals in coal powder into a variety of fused fine particles of mainly aluminium silicate composition which is called Fly ash. Fly ash is a fused residue of clay minerals present in coal. Fly ash is a fine, glass powder recovered from the gases of burning coal during the production of electricity, which is supplied by the applicants on payment of appropriate GST. Fly ash is a fine, glass powder recovered from the gases of burning coal during the production of electricity.



- 1.5 In a coal based power plant coal is transported from coal mines to the power plant by railways in wagons. Coal is unloaded from the wagons to a moving underground conveyor belt. This coal from the mines is of no uniform size. So it is taken to the crusher house and crushed to required sizes.
- 1.6 From the crusher house the coal is either stored in dead storage (generally 40 days coal supply) which serves as coal supply in case of coal supply bottleneck or to the live storage (8 hours coal supply) in the raw coal bunker in the boiler house. Raw coal from the raw coal bunker is supplied to the Coal Mills by a Raw Coal Feeder. The Coal Mills or the pulverizer pulverizes the coal to 200 mesh size. The powdered coal from the coal mills is carried to the boiler in coal pipes by high pressure hot air. The pulverized coal air mixture is burnt in the boiler in the combustion zone. In coal mills located in the power plants of the applicants, coal which is not capable to combustion or is not of the required specification based on carbon contents is segregated from the fine quality coal. Such segregated coal is called coal rejects which is used by the various industries as fuels. The applicant want to sale reject coal to such industries.

2. Question on which Advance Ruling is required:

- 2.1 Whether coal rejects to be supplied (disposed of) by way of sale at very nominal price by the power plants of the applicant attracts levy of compensation cess @ Rs. 400/- per MT?
- 2.2 Whether coal rejects to be supplied by the power plants of the applicant is covered under HSN 2701 for levy of compensation cess @ Rs. 400/- per MT?
- 2.3 Whether coal rejects to be supplied (disposed of) by way of sale at very nominal price by the power plants of the applicant is covered for exemption from compensation cess vide Notification No. 01/2017-compensation cess (Rate) dated 28.06.2017, Sr. No. 41A?
- 2.4 Whether coal rejects to be supplied (disposed of) by way of sale at very nominal price by the power plants of the applicant is covered under any



other exemption notification for exemption from levy of compensation cess?

3. Discussion and Findings:

3.1 Notification No. 01/2017- compensation cess (Rate) dt. 28.06.2017 prescribes rate of Compensation cess to be levied on the intra-state or inter-state supplies of certain goods mentioned in said notification.

3.2 Serial No. 39 of the notification No. 01/2017-compensation cess (Rate) dt. 28.06.2017 prescribes the following rates of compensation cess:-

Serial No.	Chapter Heading / Sub-heading/ Tariff Item	Description of goods	Rate of goods and services tax compensation cess
(1)	(2)	(3)	(4)
39	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal	Ts. 400/- per tonne

3.3 Press Release dated 18.01.2018 issued by the Press Information Bureau Government of India, Ministry of Finance recommended for Changes in GST/IGST Rate and Clarifications in Respect of GST Rate on Certain Goods as per discussions held in the 25th GST Council Meeting, which is extracted as under (Changed effective from 25.1.2018);

Sr. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present GST Rate	Modification/ clarification Recommended
3	2701	Coal rejects	5% + Rs. 400 PMT Compensation Cess	Coal rejects fall under heading 2701 and attract 5% GST and Rs. 400 PMT Compensation Cess.

3.4 However, the applicant submitted that no any notification has been issued to legalize the clarification issued vide Press Release dated 18.01.2018.

3.5 The applicant submitted that the 28th meeting of the Goods and Services Tax (GST) Council was held on 21 July,2018 in which it is recommended to exempt from compensation cess to coal rejects from washery. The condition, however, is that the input tax credit (ITC) should not have been

taken in respect of coal rejects. To effectuate the same notification No.02/2018-Compensation cess (Rate) date 26.07.2018 was issued by making amending in Notification No. 01/2017-Compensation cess (Rate) dated 28.06.2017 vide sr. no. 41A which is extracted as under;-

Sr. No.	Chapter Heading/sub-heading/Tariff Item	Description of goods	Rate of goods and services tax compensation cess
(1)	(2)	(3)	(4)
41A	27	Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has not been availed by any person.	NIL

3.6 The applicant also submitted that coal washery is not defined in GST Acts. In general meaning, coal washery means an establishment where coal is cleaned from slate and other impurities by mechanical processes which use water and take advantage of the difference in specific gravity of the coal and its impurities. The applicant further submitted that in their view, they are **not covered under coal washery**. Therefore, they are not sure whether compensation cess @ Rs./- per MT is payable on coal rejects or not.

3.7 As per Notification No. 01/2017- compensation cess (Rate) dated 28.06.2017, Rs. 400 per tone is leviable as compensation cess under Chapter Heading / Sub-heading 2701. Further as per Notification No. 01/2017- Central Tax (Rate) dated 28.06.2017, 2.5% Central GST is also leviable for the same heading i.e. 2701 under schedule I. Therefore, the power plant of the applicant attracts levy of compensation cess @ 400/- per tonne.

3.8 Coal rejects to be supplied by the power plant of the applicant is rightly covered under HSN 2701 for levy of compensation cess @ 400/- per tonne as HSN 2701 covers "Coal; briquettes, ovoids and similar solid fuels manufactured from coal."

- 3.9 CBIC prescribes nil rate of GST compensation cess on Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person vide notification No. 02/2018- compensation cess (Rate) dt. 26.07.2018. As the applicant is not covered under the coal washery which is also endorsed by the applicant in Para 12 of their application, the applicant is not covered for the exemption from compensation cess vide notification No. 02/2018- compensation cess (Rate) dated 26.07.2018.
- 3.10 As per present provisions of CBIC the applicant is not covered under any other exemption from levy of compensation cess.

4. Ruling:

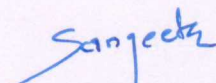
- 4.1 Coal rejects to be disposed of by way of sale at very nominal price by the power plants of the applicant attracts levy of compensation cess @ Rs. 400/- per MT;
- 4.2 Coal rejects to be supplied by the power plants of the applicant is covered under HSN 2701 for levy of compensation cess @ Rs. 400/- per MT;
- 4.3 Coal rejects to be disposed of by way of sale at very nominal price ^{by} the power plants of the applicant is not covered for exemption from compensation cess; and
- 4.4 The applicant is not covered under any other exemption from levy of compensation cess.

Ordered accordingly.

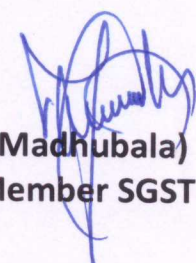
To be communicated.

28.02.2020

Panchkula.


(Sangeeta Karmakar)
Member CGST




(Madhubala)
Member SGST

Regd. AD/Speed Post

**M/s Haryana Power Generation Corporation Ltd.,
Village Assan, Assandh Road, Assan, Panipat, Haryana.**

Copy to:

1. The Commissioner, Central Goods & Service Tax, Panchkula Commissionerate, SCO 407-408, Sector-8, Panchkula, Haryana.
2. Panipat Division, Office of Assistant Commissioner, Central Goods & Service Tax Division, Gandhi Mandi, Panipat, Haryana.
3. Deputy Excise and Taxation Commissioner (ST), Panipat.

o/c