

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 13/2022

Date : 21-04-2022

Present:

1. Dr. M.P. Ravi Prasad

Additional Commissioner of Commercial Taxes

. . . . Member (State)

2. Sri. T. Kiran Reddy

Additional Commissioner of Customs & Indirect TaxesMember (Central)

1.	Name and address of the applicant	M/s. Medreich Limited, # 128, 'Medreich House', Saraswathi Ammal Street, Maruthi Sevanagar, Bengaluru-560033.
2.	GSTIN or User ID	29AABCM1458Q1ZW
3.	Date of filing of Form GST ARA-01	02-02-2022
4.	Represented by	Sri. H R Sreepada, Cost Accountant & Authorised Representative
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru. (Range-CED3)
6.	Jurisdictional Authority – State	ACCT, LGSTO-57, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act vide CIN SBIN21122900293584 dated 21.12.2021.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Medreich Limited, # 128, 'Medreich House', Saraswathi Ammal Street, Maruthi Seva Nagar, Bengaluru-560033, having GSTIN 29AABCM1458Q1ZW, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act, KGST Act.



2. The applicant, engaged in the manufacture of pharmaceutical products, are registered under the CGST/KGST Act 2017. They have their operations in other parts of the country outside the State of Karnataka and have separate registrations as per the provisions of GST Laws in India.

The applicant, in the course of business, provides food and beverage facilities at its offices and factories located in different places in the state of Karnataka besides offices and factories in other parts of the country outside Karnataka. They also provide transportation facilities to the employees to commute between their place of residence and place of work. The caterer who provides food and beverages charges GST on the value of supply in the supply invoices raised on the applicant. Some portion of the cost of food and or beverages provided to the employees during working hours is recovered from them through salary, payable to them, every month.

The applicant wants to know the applicability of GST on the inward services received from the transport service providers on the invoices raised by them towards various types of vehicles provided with different seating capacity. The applicant also wants to know the eligibility to Input Tax Credit and applicability of GST on the amounts collected from the employees.

3. In view of the above, the applicant has sought advance ruling in respect of the following questions:

- a. Whether Input Tax Credit is available on the inward supplies and for preparation of food and beverages to be provided to the employees of the company?
- b. Whether Input Tax Credit is available on the inward supplies of capital equipment used for preparation of food and beverages to be provided to the employees of the company?
- c. Whether Input Tax Credit is available on the inward supplies of food and beverages supplied by an outside caterer(s) on the basis of the Tax invoice(s) raised by them and reported in the GST portal through Form GSTR-1 and reflected in Form GSTR-2 & GSTR-2A?
- d. Whether the food and beverages provided in the course of company's principal business, to the workers during the working hours is to be considered as Supply? If yes, whether GST needs to be paid to the Government on the amount collected from the employees?
- e. If the provision of food to the employees of the applicant company is deemed to be a supply, whether it shall be treated as supply or Goods or Service, since it is served in the premises of the applicant (employer) company and not provided to them to carry outside?



- f. If the amount collected from the employees is deemed as supply and GST needs to be paid, what should be the taxable value and at what rate GST shall be paid thereon?
- g. Whether GST is applicable on the transportation services received from external supplier for the purpose of providing transportation facility to the employees between their residence and place of work?
- h. Whether GST paid on Transport Service Provider's invoices is an eligible Input Tax Credit and how the seating capacity of the vehicle is decided in this respect?
- i. Whether Input Tax Credit is available on the inward supplies of Transport Service for employees to facilitate their travel from the place of residence to the place of work and back, to perform the work of the company in the course of its business?
- j. Since the provision of food, beverage and / or transportation by the employer to the employee is done in the course of the principal business of the applicant company (employer) which would have a influential role in the furtherance of its business, whether the net cost would be treated as consideration by the company to its employees in kind as the amount recovered, if any would not be treated as income of the company, but would be applied to reduce the expenses on these relevant items of inward supplies received for enhancing the work comfort of the employees?

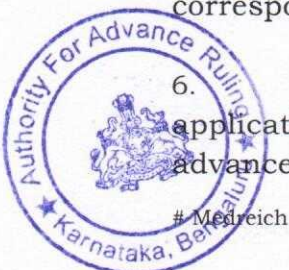
PERSONAL HEARING PROCEEDINGS HELD ON 14.03.2022

4. A personal hearing opportunity was given to the applicant on 08.02.2022. The applicant sought adjournment and hence additional opportunity of hearing was given on 14.03.2022. Sri H R Sreepada, Cost Accountant & Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

5. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matters and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

6. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts along with the



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arguments made by the applicant & the submissions made by their learned representative during the hearing.

7. It was brought to our notice, during the hearing, that the GST audit for the period 01.07.2017 to 31.03.2020 is under progress and the issues raised in the instant application have already been taken up by the audit team of Central Tax Audit-I Commissionerate, Bengaluru. The audit proceedings were initiated vide letter C.No.IV/01/807/2020 CT A-1 Gr.14 (LG VI) dated 20.06.2020, whereas the instant application is filed online on 06.01.2022 and the copy of ARA-01 was furnished to this office by the applicant on 08.02.2022. Further it is also observed from the Audit Report No.360/2021-22 GST (A-1) dated 21.03.2022, issued by the Assistant Commissioner, Circle-VI, Central Tax Audit-I Commissionerate, Bengaluru that the applicant has agreed to the objections raised by the said audit team pertaining to the issues raised in the instant application and paid the applicable GST along with interest and penalty as applicable.

8. In view of the above, we proceed to examine the admissibility / maintainability of the instant application. In this regard, we invite reference to first proviso to Section 98(2) of the CGST Act 2017, which governs the admissibility of an application that reads as under:

"The Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of applicant under any provisions of this Act".

Thus the conditions to be considered before admission of application, on the basis of above proviso are whether the question/s raised is/are (i) pending or decided in any proceedings (ii) in the case of applicant (iii) under any provisions of this Act.

9. We observed on examination of the records that the issues/questions raised by the applicant in the instant application have already been taken up by the audit team, in the case of applicant under the provisions of the CGST Act 2017. From the audit report mentioned supra it is evident that the impugned issues have already been decided in the audit proceedings. Further the fact that the unit was subjected to audit proceedings was admitted during the hearing.

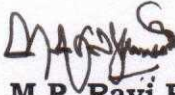
10. The issues raised in the instant application and the issues decided under the audit proceedings are one and same. Thus first proviso to Section 98(2) of the CGST Act 2017 is squarely applicable to the instant case, as all the conditions therein are fulfilled.



11. In view of the foregoing, we pass the following:

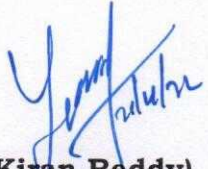
RULING

The application is rejected as "inadmissible", in terms of first proviso to Section 98(2) of the CGST Act 2017.


(Dr. M.P. Ravi Prasad)

Member

Karnataka Advance Ruling Authority
Place : Bengaluru, 560 009


(T. Kiran Reddy)

Member

MEMBER
Karnataka Advance Ruling Authority
Bengaluru-560 009

Date : 21-04-2022

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-57, Bengaluru.
5. Office Folder.

