

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH**Goods and Service Tax****O/o THE COMMISSIONER, COMMERCIAL TAX,****MOTI BUNGALOW,****MAHATMA GANDHI MARG, INDORE (M.P.) - 452007****e-mail : aar@mptax.mp.gov.in Phone : 0731- 2437315 fax. no. : 0731-2536229****PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING**
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017**Members Present**

1. Shri Manoj Kumar Choubey
Joint Commissioner

Office of the Joint Commissioner of Commercial Tax, Indore Division-1

2. Shri Virendra Kumar Jain
Joint Commissioner

Office of the Commissioner CGST and Central Excise, Indore

GSTIN Number. If any/User-id	23AAAFB6477AZZX
Name and address of the applicant	M/S B and R&CO 1, CIVIL LINES, SAGAR, Madhya Pradesh, 470001
Point on which advance ruling sought	(d) admissibility of input tax credit of taxpaid or deemed to have been paid;
Present on behalf of applicant	Mr. Devendra Kumar, CA and Mr. Arjun Khanna
Case Number06./2020
Order dated	15.09.2020
Order Number	16/2020

PROCEEDINGS(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017
and the Madhya Pradesh Goods & Service Tax Act, 2017)

1. M/S B and R & CO. LIMITED(hereinafter referred to as the Applicant) is engaged in manufacturing of high class bidi. The Applicant is having a GST registration with GSTIN 23AAAFB6477AZZX.

2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a



reference to the CGST Act would also mean a reference to the same provision under the MP GST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE –

3.1 The applicant is engaged in manufacturing of high class bidi number 207.

4. QUESTION RAISED BEFORE THE AUTHORITY –

4.1. Is Entry Tax allowing under Tran-I provision of MP GST?

5. DEPARTMENT VIEW POINT -

The Joint Commissioner, CGST & Central Excise, Commissionerate Bhopal, vide his letter F.No.IV(16)GST/Misc/Tech/Bhopal/2020-21 dtd. 06.08.2020 submitted comments on the instant application. It is submitted in the letter that it is amply clear that Advance Ruling Provisions is applicable to the applicant on the matter or on question specified in sub-section(2) of section 97 or sub-section(11) of Section 100 of the CGST Act in relation to supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

On the other hand, Entry tax is an Additional tax levy whereby states will be allowed to collection tax of one percent over and above the normal GST for the goods that enter the State. This is impossible for the maximum period of 2 years.

Thus from the above it appears that the Entry Tax collected by the MP Government would not be covered under Advance Ruling provisions which are solely for the purpose of GST.

6. RECORD OF PERSONAL HEARING -

6.1. On request of the Applicant virtual hearing was done in the case. Mr. Devendra Kumar, CA and Mr. Arjun Khanna appeared for personal hearing through video call and reiterated the submissions already made in the application. They reiterated the facts submitted along with the application. The Applicant states that –

6.2. As state tax to be subsumed in GST where State VAT, Entertainment and Amusement tax, Luxury Tax, Taxes on advertisement, Taxes on Lottery, betting and gambling, octroi and Entry Tax, Purchase Tax are part of GST and on the same ground we claimed entry tax under Tran-I provision and as per Tran-I formal available at GST Portal and vide column no.7 C " Amount of VAT and Entry Tax paid on inputs supported by invoices / documents evidencing payment of tax carried forwards to electronic credit ledger as SGST/ UTGST under sections 140 (3), 140(4)(b) and 1-40(6)" which is clearly showing that Entry Tax credit allowed to carried forwards into electronic credit ledger as SGST on input held in stock and inputs contained in semi finished or, finished goods held in stock on the appointed day.

6.3. In the same reference we would like to inform you accordingly that:- As per Rule 117 (2) every declaration under sub-rule (1) shall- b) in the case of a claim under

sub-section (3) or clause (b) of sub-section (4) or sub-section (6) or sub-section (8) of section 1-40, specify separately the details of stock held on the appointed day; (c) in the case of a claim under sub-section (5) of section 1"40, furnish the following details, namely:- (iv) the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services; and With the help of CGST rule and conditions which is clearly explained that the entry tax in the case of said condition (c) (iv) is applicable than why not allowed under SGST (MPGST).

7. DISCUSSIONS AND FINDINGS –

7.1. We have carefully considered the facts put up before the Authority by way of written submission and also those placed during the course of personal hearing. We find that the short point involved in the matter before us is regarding "Is Entry Tax allowing under Tran-I provision of MPGST?".

7.2. We have taken a note of the letter F.No.IV(16)GST/Misc/Tech/Bhopal/2020-21dtd. 06.08.2020 of the Joint Commissioner, CGST & Central Excise, Bhopal. It is an admitted fact on record, as also transpired during the course of personal hearing, that the question raised by the applicant before the AAR had already been examined by the department as the applicant had claimed such disputed credit in their TRAN-1.

7.3. Before going into the merits of the case, it is necessary to deal with the issue whether the application deserves to be admitted and heard on merits. In this context it is pertinent to refer to Section 98(2) of the GST Act 2017, which reads as under –

7.4. As per Section 97(2) of GST Act the question on which the advance ruling is sought under this Act, shall be in respect of-

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of GST 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.

7.5. A plain reading of Section 97(2) of GST Act clearly implies that the any question relating to Input Tax in TRAN-1, which falls under transitional provision, shall be out of purview of Advance Ruling. Admissibility of input tax credit, as given in section 97(2) of GST Act, relates to 'input tax credit' as defined in Section 2(63) of GST Act 2017 read with Section 2(62) *ibid* and not the Input Tax in TRAN-1 carried forward in TRAN-1, which categorically pertains to pre-GST regime. Thus, we find that the question placed before us does not fall within four corners of issues defined for seeking advance ruling under Section 97(2) *ibid*. Hence the application does not hold ground to be admitted on this count.

7.6. Further, Section 98(2) of the GST Act 2017 reads as under –
SECTION 98. Procedure on receipt of application –

(1)

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(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorized representative and the concerned officer or his authorized representative, by order, either admit or reject the application:

Provided that 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 an applicant under any of the provisions of this Act.

7.7. It is important to mention here that Deputy Commissioner, Commercial Tax, Sagar Division Madhya Pradesh had already decided the issue of getting credit of Entry Tax in TRAN-1 in his order dated 24.02.2020 in the applicant's case of Entry Tax Act pertaining to period 01.04.2017-30.06.2017.


7.8. Now having regard to the Proviso to Section 98(2) of the GST Act 2017, we are of firm opinion that applicant had not only raised this particular issue, in respect of which Advance Ruling is sought vide application under consideration, before the jurisdictional officers but also the issue has been already decided in the applicant's Entry Tax Act case for the period 01.04.2017-30.06.2017.


7.9. In view of the above, when the question raised before us has already been decided. We do not find any reason to take up the matter on merits. In view of the clear provisions given under Section 98(2) *supra*, the application deserves to be rejected.

8. Ruling

8.1 The application filed by the applicants is hereby rejected.

8.2 The ruling is valid subject to the provisions under section 103 (2) until and unless declared void under Section 104 (1) of the GST Act.


(Virendra Kumar Jain)
(Member)


(Manoj Kumar Choubey)
(Member)

Copy to:- NO.06/2020/IA-AR/R-28/35

INDORE dated 15/09/2020

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

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