



RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX, KAR BHAWAN, AMBEDKAR
CIRCLE, NEAR RAJASTHAN HIGHCOURT
JAIPUR - 302005 (RAJASTHAN)



ADVANCE RULING NO. RAJ/AAR/2024-25/25

| | | |
|---|---|---|
| Mahipal Singh Additional Commissioner | : | Member (Central Tax) |
| Mahesh Kumar Gowla Additional Commissioner | : | Member (State Tax) |
| Name and address of the applicant | : | M/s ANIL KUMAR TIRTHANI, 73-C, Jhule Lal Colony, Near Shlv Mandlr, Ajay Nagar, AJMER-305001, Rajasthan |
| GSTIN of the applicant | : | Un-registered |
| Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised | : | (e) Determination of the liability to pay tax on any goods or services or both. (f) whether applicant is required to be registered under the Act |
| Date of Personal Hearing | : | 02.12.2024 |
| Present for the applicant | : | Mr. Satish Shrivnani, C.A. |
| Date of Ruling | : | 03.01.2025 |

Note 1: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling, constituted under Section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

Note 2: At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act 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 same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

A. SUBMISSION OF THE APPLICANT(In brief):-

Brief facts of the case :

It is requested humbly that the following facts may kindly be considered :

- 1) My Father (Mr. Bhagvan Tirthani) is a person with the limited turnover, which is below the GST registration exemption limit .
- 2) It is requested humbly that the unauthorized search was conducted at the residential place of my uncle Mr. Lalit Tirthani which is evident from the records available with the department.
- 3) The Cash amounting Rs. 10 Lacs was wrongly seized by the department from the premises of my Uncle Mr. Lalit Tirthani .
- 4) In respect of the balance amount Rs. 37.45 Lacs also , My Father had provided the bifurcation as well as the explanations to the department with supporting documents .
- 5) Out of Rs. 37.45 Lacs , The amount of Rs. 21 Lacs pertain to Mr. Maneesh Hazari and Rs. 15 lacs , Pertain to Mr. Purnamal and only Rs. 1.45 Lacs pertain to my father and my family .
- 6) It is humbly requested that in respect of the above mentioned amounts ,My Father has already submitted the relevant documents before the respective authorities .
- 7) It is requested that My Father doesn't purchase and sale the cigarettes .The different hawkers and representatives of the various companies visit my Father's shop

at parao as shop is at main market and keep their samples and goods for sale to their prospective customers .

Thus it is requested that the agents and representatives of the various companies sale their goods , but they have made my Father's shop their meeting point. The goods seized from place of business did not pertain to my Father. They were actually of the agents of various Delhi made cigarettes companies.

8) It is further requested that the GST department has wrongly seized cash. As per the decision of the Honourable Delhi high court " Cash would not fall within the purview of definition of goods and would fall within the purview of money as defined under section 2(75) of the CGST Act and in support of their contention we have placed reliance on the recent judgement the Honourable Delhi High Court in the case of Jagdish Bansal Vrs. Union of India [W. P. (C) No. 16677 of 2023 dated February 26,2024] writ petition was allowed with the direction to the revenue department to remit the cash seized along with interest thereby holding that the department is not empowered to seize cash under applicable laws of CGST."

9) It is humbly requested that the Learned Jurisdictional officer has wrongly overvalued the price of the cigarettes seized.

10) It is humbly requested that the search proceedings were initiated wrongly as the unauthorized search was conducted in the premises of my Uncle Mr. Lalit Tirthani as there was no authorization of search in the name of Mr. Lalit Tirthani.

11) It is requested that as the unauthorized search was conducted and the cash pertaining to other were seized wrongly by the GST Department in respect of which applications and affidavits were submitted time to time to concerning departments but still no cash is released. Therefore it is requested humbly to quash the penalty imposed in respect of the cash seized of others. It is further requested that the penalty imposed in respect of the cigarettes pertaining to the other agents may kindly be dropped. It is further requested that all the penalties imposed may be quashed as the search proceedings are invalid from the route level. This Application for advance ruling has been made in addition and in continuation of advance ruling application made by my father Mr. Bhagvan Tirthani (GSTN/User ID of Applicant :-082400001146ARY) bearing Acknowledgement number AD081024001854F dated 05/10/2024 and my brother Mr. Anil Kumar Tirthani(GSTN/ User ID of Applicant:- 082400001173AR1) bearing Acknowledgement number AD081024016254K dated 21/10/2024.

B. INTERPRETATION AND UNDERSTANDING OF APPLICANT ON QUESTION RAISED (IN BRIEF)

1) It is requested that My Father has been dealing in the trading of the grocery items . The GST department conducted the unauthorized search in the premises of my uncle Mr. Lalit Tirthani as on 22/11/22 . The cash amounting Rs. 10Lacs was wrongly and illegally seized by the Department , from the premises of my uncle Mr. Lalit Tirthani .

2) The Authorities have not considered the facts and circumstances . My Father Mr. Bhagvan Tirthani had provided the explanations about the amount seized. But the GST authorities have not considered the facts and the affidavits and other supporting documents made available to them .

3) My Father is a person with the limited turnover, which is below the GST registration exemption limit .

4) It is requested humbly that the unauthorized search was conducted at the residential place of my uncle Mr. Lalit Tirthani which is evident from the records available with the department.

5) The Cash amounting Rs. 10 Lacs was wrongly seized by the department from the premises of my uncle Mr. Lalit Tirthani .

6) In respect of the balance amount Rs. 37.45 Lacs also , My Father had provided the bifurcation as well as the explanations to the department with supporting documents .

7) Out of Rs. 37.45 Lacs , The amount of Rs. 21 Lacs pertain to Mr.Maneesh Hazari and Rs. 15 lacs , Pertain to Mr. Purnamal and only Rs.1.45 Lacs pertain to my Father and my family .

8) It is humbly requested that in respect of the above mentioned amounts, My father has already submitted the relevant documents before the respective authorities.

9) It is requested that My father doesn't purchase and sale the cigarettes .The different hawkers and representatives of the various companies visit my father's shop at parao as shop is at main market and keep their samples and goods for sale to their prospective customers .Thus it is requested that the agents and representatives of the various companies sale their goods , but they have made my father's shop their

meeting point. The goods seized from place of business did not pertain to my father. They were actually of the agents of various Delhi made cigarettes companies.

10) It is further requested that the GST department has wrongly seized cash. As per the decision of the Honourable Delhi high court " Cash would not fall within the purview of definition of goods and would fall within the purview of money as defined under section 2(75) of the CGST Act and in support of their contention we have placed reliance on the recent judgement the Honourable Delhi High Court in the case of Jagdish Bansal Vrs. Union of India [W. P. (C) No. 16677 of 2023 dated February 26,2024] writ petition was allowed with the direction to the revenue department to remit the cash seized along with interest thereby holding that the department is not empowered to seize cash under applicable laws of CGST."

11) It is humbly requested that the Learned Jurisdictional officer has wrongly overvalued the price of the cigarettes seized.

12) It is humbly requested that the search proceedings were initiated wrongly as the unauthorized search was conducted in the premises of my uncle Mr. Lalit Tirthani as there was no authorization of search in the name of Mr. Lalit Tirthani.

13) It is requested that as the unauthorized search was conducted and the cash pertaining to other were seized wrongly by the GST Department in respect of which applications and affidavits were submitted time to time to concerning departments but still no cash is released. Therefore it is requested humbly to quash the penalty

imposed in respect of the cash seized of others. It is further requested that the penalty imposed in respect of the cigarettes pertaining to the other agents may kindly be dropped. It is further requested that all the penalties imposed may be quashed as the search proceedings are invalid from the route level.

14) It is humbly requested that the 233000 nos. of cigarettes valued atRs.18,67,690/- were wrongly confiscated under the provisions of section 130(1) of the CGST Act,2017 and Rajasthan GST Act,2017 read with rule 139 of the CGST Rules read with rule 139 of the Rajasthan GSTrules,2017 because the cigarettes didn't belong to my father and any member of my family.

15) It is humbly requested that the Indian Currency of Rs. 47,45,000/- were wrongly confiscated under the provision of section 130(1) of the CGST Act,2017 and Rajasthan GST Act,2017 read with rule 139 of the CGST rules read with rule 139 of the Rajasthan GST rules ,2017.Therefore confiscated currency which belong to the other people may kindly be released.

16) It is requested that kindly quash the penalty of Rs. 9,81,526/-imposed in the name of Mr. Bhagvan Tirthani under section 122(1)(i) of CGST Act,2017.

17) It is requested that kindly quash the penalty of Rs. 9,81,526/-imposed in the name of Mr. Bhagvan Tirthani under section 122(1)(xv)of CGST Act,2017.

18) It is requested that kindly quash the penalty of Rs. 9,81,526/-imposed in the name of Mr. Bhagvan Tirthani under section 122(1)(xvi)of CGST Act,2017.

19) It is requested that kindly quash the penalty of Rs. 9,81,526/-imposed in the name of Mr. Bhagvan Tirthani under section 122(1)(xvii)of CGST Act,2017.

20) It is requested that kindly quash the penalty of Rs. 9,81,526/-imposed in the name of Mr. Bhagvan Tirthani under section 122(1)(xviii) of CGST Act, 2017.

21) It is requested that kindly quash the penalty of Rs. 50,000(CGST25,000/- and SGST 25000/-) imposed under section 122(3)(d) of CGST Act, 2017.

22) It is requested that kindly quash the penalty of Rs. 50,000(CGST25,000/- and SGST 25000/-) imposed in name of Mr. Anil Kumar Tirthani under section 122(3)(d) of CGST Act, 2017.

23) It is requested that kindly quash the penalty of Rs. 50,000(CGST25,000/- and SGST 25000/-) imposed in the name of Mr. Bhagvan Tirthani under section 122(3)(d) of CGST Act, 2017.

24) All the above proceedings are relevant to my Father Mr. Bhagvan Tirthani in which I am nowhere involved. Therefore the penalty proceedings may be dropped. It is requested that the opportunity of personal hearing may be granted. This Application for advance ruling has been made in addition and in continuation of advance ruling application made by my father Mr. Bhagvan Tirthani (GSTN/User ID of Applicant :- 082400001146ARY) bearing Acknowledgement number AD081024001854F dated 05/10/2024 and my brother Mr. Anil Kumar Tirthani (GSTN/ User ID of Applicant:- 082400001173AR1) bearing Acknowledgement number AD081024016254K dated 21/10/2024.

C. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:

Q1. It is requested whether the GST Search can be conducted other than the place specified in the Search warrant ?

Q2. Whether the cash or valuables can be seized by the department from the place other than specified and authenticated in the search warrant ?

Q3. Whether the cash and goods pertaining to the person other than the assessee can be seized by the Department?

Q4. Whether the cash seized can be confiscated, whether the cash fall in the category of the Goods as per the GST act.

Q5. Whether the goods pertaining to other person can be seized and confiscated

Q6. Whether the penalty can be imposed and demand may be raised in the hands of the other person; other than assessee?

Q7. Whether the cash pertaining to other person, for which the explanation has already been provided by the assessee and supporting documents like affidavits and other explanations by the owner of the cash seized are already on record of the adjudicating authority and then too the cash is not released, whether it is correct to seize the cash and confiscate the same as goods?

Q8. Whether the goods pertaining to the other person kept at the place of Assessee, be deemed to be of the assessee.

Q9. Whether the cash can be seized from the home of the Assessee as well as the home of his relatives (Brother)?

Q10. Whether the cash seized from two different premises can be clubbed and assessed in hands of Assessee?

Q11. Whether the affidavits and requests can be ignored by the Department and confiscation of the goods and cash pertaining to the other persons, other than assessee can be done in the hands of the assessee?

D. PERSONAL HEARING :

In the matter personal hearing was granted to the applicant on 02.12.2024. Mr. Satish Shivnani (C.A.) Authorized Representative appeared for personal hearing. As per deficiency raised, Shri Satish Shivnani (C.A.) has submitted the authorization letter along with questions on which advance ruling is sought. He also submitted the reply and orally requested to submit the additional documents within 7 days. Further, instead of submitted additional document Shri Satish Shivnani (C.A.) vide their letter dated 05.12.2024 has requested to withdraw the Advance Ruling application filed before the authority.

E. WITHDRAWAL OF APPLICATION:

1. In terms of clause (a) of section 95 of the GST Act, an advance ruling means a decision provided by this authority or the appellate authority on matters or any questions specified in sub section (2) of section 97 or sub section (1) of section 100 of the GST Act in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

2. Further, an applicant desirous to obtain an advance ruling is required to adhere sub section (2) of section 97 of the GST Act where question/(s) can be sought in respect of the following:

- (a) Classification of any goods or services or both;
- (b) applicability of a notification issues under the provisions of this 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.

3. In the instant case, questions raised by the applicant vide application made in FORM GST ARA-01 are found not to be covered under any of the clauses of sub-section (2) of section 97 of the GST Act.

4. The applicant has selected clause (e) and (f) of sub section (2) of section 97 of the GST Act in serial no. 13 of the application. However, in course of hearing, the authorized representatives of the applicant have failed to refer any such notification in respect of which the option was selected.

5. We are therefore of the view that the applicant has not raised any questions which are found to be covered under any of the clauses of sub-section (2) of section 97 of the GST Act. We are satisfied that the applicant has been provided reasonable opportunity to counter the aforesaid observations. Therefore, we do not find any reason to accept the instant application made by the applicant for pronouncement of ruling. The application is liable to be rejected, hence, rejected.

6. Further, the taxpayer in his application has submitted that the matter has already been adjudicated by Assistant Commissioner, CGST Division-J, Ajmer vide Order In Original No. 14/GCM/GST/DIV-J/2024-25/AC dated 11.06.2024.

We observed that in terms of first proviso of sub section (2) of section 98 of the GST Act "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". Here, found that as the matter has already been decided by Assistant Commissioner, CGST Division-J, Ajmer vide Order In Original No. 14/GCM/GST/DIV-J/2024-25/AC dated 11.06.2024. Therefore, we found that the application filled by the applicant is not fit to accept for pronouncement of ruling. The application is, therefore, rejected.

7. Further the applicant also vide their letter dated 05.12.2024 has requested to withdraw the Advance Ruling application filed before the authority as applicant stated in his withdrawal letter that being aggrieved by the order passed by the adjudicating authority vide OIO No. 14/GCM/GST/DIV-J/2024- 25/AC dated 11/06/2024, he had to file the appeal before Appellate Authority against the order passed. But due to technical problem of non-availability of Appeal option on the GST portal, he filed the Advance ruling application, in absence of availability of appeal filing option on the GST common portal. But now, as it has come to his knowledge, therefore, he requested to withdraw his advance ruling application.

Since the ruling authority has not found any reason to accept the application for pronouncement of ruling and applicant has also requested for withdrawal of the application therefore, their request to withdraw the application is considered. Hence, no ruling is given.

19
03/07/2025

(Mahipal Singh)
MEMBER
CENTRAL TAX



W/S
03/01/2025

(Mahesh Kumar Gowla)
MEMBER
STATE TAX

F. No. AAR/SF/2024-25/216-220

Date: 07/01/2025

SPEED POST

To,
M/s ANIL KUMAR TIRTHANI,
73-C, Jhule Lal Colony, Near Shiv Mandir, Ajay Nagar,
AJMER-305001, Rajasthan

Copy to: -

1. The Chief Commissioner, CGST and Central Excise (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan-302005
2. The Chief Commissioner, State Tax, KarBhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur-302005.
3. The Pr.Commissioner, CGST and Central Excise Commissionerate Jaipur, Rajasthan.
4. The Assistant Commissioner, CGST Division-Ajmer city, AJMER, Rajasthan

01