



**RAJASTHAN AUTHORITY FOR ADVANCE RULING  
GOODS AND SERVICES TAX, KAR BHAWAN, AMBEDKAR  
CIRCLE, NEAR RAJASTHAN HIGH COURT  
JAIPUR – 302005 (RAJASTHAN)**



**ADVANCE RULING NO. RAJ/AAR/2023-24/17**

Mahipal Singh Additional Commissioner	:	Member (Central Tax)
Mahesh Kumar Gowla Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Birla Corporation Ltd., Madhav Nagar, Sector III, P.O. Cement Factory, Chanderia, Chittorgarh, Rajasthan- 312021
GSTIN of the applicant	:	08AABCB2075J1ZQ
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
Date of Personal Hearing	:	01.01.2024
Present for the applicant	:	Shri Gopal Mundra, CA and Shri Ashok Somani, CA
Date of Ruling	:	31.01.2024

**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 SGST 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 SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s Birla Corporation Ltd., Madhav Nagar, Sector III, P.O. Cement Factory, Chanderia, Chittorgarh, Rajasthan-312021(hereinafter "*the applicant*") is fit to pronounce advance ruling, as it falls under the ambit of the Section 97(2)(a) given as under:

(e) Determination of the liability to pay tax on any goods or services or both;

**A. SUBMISSION OF THE APPLICANT(in brief):-**

The applicant is engaged in manufacturing of Cement at Chanderia, Chittorgarh having unit in the name of Chanderia Cement Works. Being eligible for RIPS -2019, an entitlement certificate has been issued by State Screening Committee to the company, by which the company is eligible to claim incentive on the basis of state tax due and deposited by them. Accordingly, the applicant seeks advance ruling stating that:-

1. Section 9 of GST Act, 2017 is in respect of levy and collection of Tax and any sum payable by virtue of this section is a tax liability of the dealer under the Act;
2. Section 9(3) of GST Act, 2017 empowers the government to shift the tax liability on recipient instead of supplier, therefore any tax payable by virtue of Notifications issued u/s 9(3) is the liability of the dealer, who is receiving the service;
3. Further Section 9(3) of GST Act, 2017 specifically provides that all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both; and
4. By virtue of Section 9(3) of GST Act, 2017, any tax is due and paid by registered dealer as RCM is also his primary liability as state tax.

5. The department is not considering RCM due and deposited as their output liability whereas the same is being deducted as input to arrive tax due and deposited which is against law of natural justice.
6. RCM is primary liability of recipient of supply, is also supported by the procedure of issuing of self-invoicing for RCM supply in case supplier is un-registered dealer. In RCM mechanism, a recipient of service is in dual capacity, first he has to raise invoice on himself and pay tax as supplier and second as recipient of service, he is eligible for ITC of the same. Hence in their view, the RCM payable and paid by registered dealer is a State Tax due and deposited under RGST Act, 2017.

**B. INTERPRETATION AND UNDERSTANDING OF APPLICANT ON QUESTION RAISED (inBrief):-**

The Rajasthan Government has issued Notification No. F.12(39)FD/Tax/ 2019-97 dated 17.12.2019 regarding Rajasthan Investment and Promotion Scheme, 2019 (RIPS-2019), wherein Para No.2(lxxxiv) defines "State tax due and deposited" as under:-

**"State Tax due and deposited" means:**

(a) the amount of State Tax (SGST) paid through debit in the electronic cash ledger account maintained by the enterprise in terms of sub-section (1) of section 49 of the Rajasthan Goods and Service Tax Act, 2017 (Act No. 9 of 2017) after utilization of the available amount of input tax credit of the State tax (SGST) and Integrated tax (IGST); and/or

(b) the amount of VAT and CST which have become due and have been deposited by the enterprise, as applicable, related to the period for which benefits under the scheme has been claimed;"

In view of the above definition, the question arises as to whether the tax payable under RCM in terms of Notification issued u/s 9(3) of GST Act, 2017 is "State Tax due" under SGST Act, 2017 or not. Because, in respect of the period 01.01.2023 to 31.03.2023, the applicant has filed incentive/subsidy claim, against which the department has reduced the subsidy for RCM due and deposited. On reduction of claim, the applicant has asked the reason for reduction of subsidy amount on 30.06.2023. In response to it, the learned Deputy Commissioner, State Tax, Circle, Chittorgarh has replied that since the definition does not include reverse tax, the same shall not be eligible and therefore the company has sought advance ruling in this matter.

**C. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:-**

Whether tax payable as RCM under Notification issued u/s 9(3) of GST Act, 2017 is "State Tax due" under SGST Act, 2017 or not?

**D. PERSONAL HEARING**

In the matter, personal hearing was granted to the applicant on 01.01.2024. Shri Gopal Mundra, CA and Shri Ashok Somani, CA and Authorized Representative appeared for personal hearing. They reiterated the submission already made in written submission. During P.H., they have submitted written representation. They requested for early disposal of the application.

**E. COMMENTS OF THE JURISDICTIONAL OFFICER**

Comments received from the Deputy Commissioner, Circle-E, Divisional Kar Bhawan, Chittorgarh, Rajasthan, vide letter क्रमांक-उपा./चि/23.-24/176 dated 20.09.2023, are as under:-

The definition of "State Tax", as provided under Section 2(104) of RGST Act, 2017, is "State tax means the tax levied under this Act".

Further, Section 9(3) of GST Act, 2017 reads as under:-

"(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the

*provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both."*

On the basis of above facts, it is clear that if applicant is in ambit of Section 9(3) of GST Act, 2017 and the notifications issued there under, all the provisions of this act shall apply to such recipient. The applicant has, in his application (Para No.13) mentioned that the question raised is covered under Point No.5 of Section 97(2) of GST Act, 2017 i.e. "*Determination of liability to pay tax on any goods or services or both*". However, on careful perusal of the application, it is clear that the clarification sought by the applicant is not related to the ascertainment or determination of liability to pay tax on any goods or services or both, as no such goods or service is specified in the application.

In this regard, Section 97 (2) of the GST Act reads as under:-

*"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 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."*

However the applicant co-related and gave the relevance of Rajasthan Investment and Promotion Scheme-2019 (RIPS-2019) for the question raised for ruling. The term "*State Tax due and deposited*" is derived from RIPS Scheme-2019 issued by Government of Rajasthan vide Notification F.No.12(39)FD/Tax/2019-97 dated 17.12.2019.

The Applicant has intermingled the question raised for ruling between GST ACT 2017 and RIPS Scheme -2019 of Rajasthan government. The applicant has sought ruling with reference to the RIPS Scheme -2019. There is no term -"State Tax due" (as questioned by the applicant) under RGST ACT 2017. The applicant is giving relevant facts of RIPS Scheme -2019 and on the other hand sought advance ruling under GST Act-2017. And it is also to be noted that the definition of "State Tax due" (as sought in Question for advance ruling) is described in Para No.2 (lxxxiv) of RIPS Scheme-2019.

Since the question raised by the applicant about "*State Tax due*", is related to RIPS Scheme, 2019 of Government of Rajasthan and also of procedural nature, it is not covered in Section 97(2) of GST 2017. Thus the application does not qualify for advance ruling under GST Act, 2017.

#### **F. FINDINGS, ANALYSIS & CONCLUSION:**

1. We have carefully examined the statement of facts, supporting documents filed by the applicant along with application, oral and written submissions made at the time of hearing and the comments of the State Tax Authority. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.
2. The question on which the Advance Ruling has been sought by the applicant is whether tax payable under RCM in terms of Notification issued u/s 9(3) of GST Act 2017 is "*State Tax due*" under SGST Act, 2017 or not.
3. The Reverse Charge Mechanism (RCM) under the Goods and Services Tax (GST) regime is an innovative mechanism that shifts the responsibility of tax payment from the supplier to the recipient of goods and services. Section 9(3) of GST Act, 2017 reads as under:-

*"(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both."*



3.1 On the basis of above facts, it is clear that if applicant is in ambit of Section 9(3) of GST Act, 2017 and the notifications issued there under, all the provisions of this act shall apply to such recipient. Accordingly, it reveals that it is the liability of the supplier which has been transferred to the recipient in terms of Section 9(3) of GST Act, 2017.

3.2 The applicant seeks ruling whether tax payable under RCM in terms of Notification issued u/s 9(3) of GST Act 2017 is "State Tax due" under SGST Act, 2017 or not. In this regard, the definition of "aggregate turnover" provided under Section 2(6) of GST Act, 2017 reads as under:-

*"aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess"*

3.3 On combined reading of both the aforesaid provisions of Section 2(6) read with Section 9(3) of CGST Act, 2017, it is clear that it is not the actual liability of the recipient, but it has been shifted from the supplier to the recipient. It is the special arrangement by the Central/State Government to curb tax evasion and enhance tax compliance.

3.4 In view of the above definition, it is clear that the inward supplies on which the recipient is required to pay tax under RCM (Reverse charge mechanism) does not form part of aggregate turnover of the recipient. However the value of such supplies would continue to be part of aggregate turnover of the supplier of supplies. However, whether the tax paid under RCM would cover under "state tax due and deposited" in term of Para No.2 (lxxxiv) of RIPS-2019 issued by Government of Rajasthan vide Notification F.No.12(39)FD/Tax/2019-97 dated 17.12.2019, or not, is examined hereunder.

4. The definition of **state tax due and deposited** in term of Para No.2 (lxxxiv) of RIPS-2019 issued by Government of Rajasthan vide Notification F.No.12(39)FD/Tax/2019-97 dated 17.12.2019, is as under-

**"State Tax due and deposited"** means:

(a) the amount of State Tax (SGST) paid through debit in the electronic cash ledger account maintained by the enterprise in terms of sub-section (1) of section 49 of the Rajasthan Goods and Service Tax Act, 2017 (Act No. 9 of 2017) after utilization of the available amount of input tax credit of the State tax (SGST) and Integrated tax (IGST); and/or

(b) the amount of VAT and CST which have become due and have been deposited by the enterprise, as applicable, related to the period for which benefits under the scheme has been claimed;

4.1 We find that the term of "State Tax due and deposited" is only related to Rajasthan Investment and Promotion Scheme-2019 (RIPS-2019). The applicant claimed that the question raised is covered under Point No.5 of Section 97(2) of GST Act, 2017 i.e. "Determination of liability to pay tax on any goods or services or both". In this regard, Section 97 (2) of the GST Act reads as under:-

*"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 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."*

4.2 On careful perusal of the application as well as the aforesaid provisions of Section 97(2) of GST Act, 2017, it is clear that the Authority for Advance Ruling can provide rulings on

various matters, including the classification of goods or services, the applicability of a notification issued under the Act, the liability to pay tax on a particular transaction, and the determination of time and value of supply, and the clarification sought by the applicant is not related to the ascertainment or determination of liability to pay tax on any goods or services or both, as no such goods or service is specified in the application.

4.3 The applicant has sought ruling with reference to the RIPS Scheme-2019. There is no term "State Tax due" under GST Act, 2017. The applicant, at one hand, is giving relevant facts of RIPS Scheme-2019 and on the other hand, seeks advance ruling under GST Act, 2017.


4.4 Since the question raised by the applicant about "State Tax due", is related to RIPS Scheme, 2019 of Government of Rajasthan and also of procedural nature, it is not covered in Section 97(2) of GST 2017. Thus the application does not qualify for advance ruling under GST Act, 2017.


5. In view of the foregoing, we rule as under: -

#### RULING

The subject application for advance ruling made by the applicant is not maintainable in terms of Provisions of Section 97(2) of GST Act, 2017 and hereby rejected under the provisions of Section 98 of the GST Act, 2017.

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

  
(Mahipal Singh)  
MEMBER  
CENTRAL TAX

  
(Mahesh Kumar Gowla)  
MEMBER  
STATE TAX

F. No. AAR/SF/2023-24/176-180



Date: 02.02.2024

#### SPEED POST

To,

M/s. Birla Corporation Limited,  
Madhav Nagar Sector III, PO Cement Factory,  
Chandaria, Chittorgarh - 312021 (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, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur-302005.
3. The Commissioner, CGST and Central Excise, Udaipur Commissionerate, Rajasthan.
4. The Deputy Commissioner, Circle-E, Divisional Kar Bhawan, Fort Road, Chittorgarh, Rajasthan-312001