

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
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PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur(C.G)

Sub:- Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 – Regarding levy of Compensation Cess on coal and coal rejects.

Read:- Application dated 31-03-2021 from M/s Parse Kente Collieries Limited, Ground floor, Adani House, CR Heights Basant Petrol Pump Kharsia Ambikapur, District Sarguja, Chhattisgarh-497001 (hereinafter referred to as the applicant), (GSTIN- 22AAECP5581E1ZL).

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/04/2021

Raipur Dated 25/5/2021

The Applicant M/s Parse Kente Collieries Limited, Kharsia Ambikapur, District Sarguja, Chhattisgarh [herein after also referred to as the Applicant] holding GSTIN- 22AAECP5581E1ZL, has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 requesting an advance ruling regarding levy of Compensation Cess on coal and coal rejects.

2. Facts of the case and Noticee's contention:-

The Applicant has furnished following details regarding the issue for which they are seeking advance ruling:-

- i. Government of India allotted Coal Blocks (Parsa Kente) in the State of Chhattisgarh to Rajasthan Rajya Vidyut Utpadan Nigam Limited ("RVUNL") on 19th/25th June, 2007 (the Coal Blocks).



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ii. RVUNL issued tender inviting bids for selection of suitable persons to enter into a joint venture arrangement with RVUNL and form a joint venture company to undertake coal mining and arrange for its transportation and delivery to the Thermal Power Stations ("TPS") of RVUNL in the State of Rajasthan.

iii. Adani Enterprises Limited ("AEL") was selected as a successful bidder, and accordingly incorporated a Joint Venture Company named Parse Kente Collieries Limited ("PKCL") the Applicant herein. RVUNL holds 26% equity while AEL holds 74% equity in the Applicant company. A Coal Mining and Delivery Agreement ("CMDA") was entered into on 16th July, 2008 between RVUNL and the Applicant. Broadly summarized, the salient features of the CMDA are as under:

- (a) The Applicant would carry out all Works, as defined therein, from identification of techno commercially viable coal blocks to coal mining and arranging for delivery of coal to RVUNL's TPS;
- (b) All expenses incurred for the Works are to be borne by the Applicant, including all expenses in relation to the cost of acquisition of land/lease of land, fees and arranging of clearances, reports and licenses and all charges incurred for arranging mining data, geological data and reports;
- (c) The Applicant has no right or interest in the coal and the coal block, and the coal at all times remains the property of RVUNL;
- (d) The Applicant is required to establish a Coal Washery and deliver the washed coal of the required specifications to RVUNL;
- (e) The coal rejects remaining after washing shall be the property of the Applicant and shall be disposed of by the Applicant subject to RVUNL's right to observe the disposal of the rejects and the right to witness the determination of the grade thereof
- (f) The Applicant shall arrange for transportation of coal from mines/washery to the delivery points by Rail and arrange for booking of rakes and payment of Railway freight charges to the Railways before dispatch;
- (g) The Applicant shall also arrange for loading of the Railway Rakes and for that purpose, arrange necessary place of storage of mined/beneficiated coal at the Railway siding; Unloading of the coal at the delivery point shall be the responsibility of RVUNL; In consideration of the services rendered by the Applicant, RVUNL shall pay to the Applicant a contract price as agreed in the CMDA which is divided into basic price and reimbursables.



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- (h) The Applicant, on a back to back basis, has subcontracted the work of mining and washing of coal to Adani Enterprises Limited ("AEL"). AEL has set up a Coal Washery close to mine pithead and upon mining of the raw coal, washes the same.
- (i) Prior to GST regime, when Clean Energy Cess was applicable, RVUNL was paying the same on entire quantity of coal. With introduction of GST on 1st July, 2017, all parties-AEL, PKCL and RVUNL have obtained registration for the establishments located in the State of Chhattisgarh. To comply with the GST laws, having regard to the provisions of the CMDA and the Mining Contract with AEL, the parties execute the following documents:-

AEL issues three Invoices – two for the mining fees (one for 90% and other for balance 10%) of washed coal and the other for the quantity of the coal rejects, obtained post washing. AEL charges GST @ 18% in both the invoices;

The Applicant (PKCL), in turn, issues 3 Invoices on RVUNL towards mining fees. The first two invoices are in respect of the fee payable in cash, while the third is in respect of the fee payable in kind (by way of transfer of property in the reject coal).

The first invoice is for 90% of the mining fee payable in cash, which is computed with reference to the quantity of washed coal at the contract price as per CMDA. The second invoice is for the balance 10% of the mining fee payable in cash, computed with reference to the quantity of washed coal at the contract price as per CMDA. These two invoices are issued by PKCL, Chhattisgarh on RVUNL, Chhattisgarh. GST at the rate of 18% under heading 998622 is charged.

The third invoice issued by Applicant on RVUNL, Chhattisgarh is also for the mining fee, computed with respect to the property in the reject coal transferred to PKCL in terms of the CMDA. Here too, GST is charged at the rate of 18% under heading 998622;

On the basis of the two invoices for mining fees payable in cash issued by PKCL, AEL raises back to back invoices.

RVUNL, Chhattisgarh also issues two invoices, one for the washed coal on RVUNL's TPS where such washed coal is delivered. The other invoice is on the Applicant for the coal rejects with the following description "Washery Rejects (Barter Supply against Mining Service)".

Under the two invoices issued by RVUNL, Chhattisgarh GST is charged @ 5% which is tax leviable on coal under heading 2701. It is in these invoices, for the first time, Compensation Cess is charged @ Rs.400/- PMT.



(j) Since the Applicant is required to initially incur all expenses in accordance with the CMDA, as far as the Compensation Cess is concerned, the Applicant, at all relevant times, deposited Compensation Cess, calculated @ Rs.400/- per metric ton on the total quantity of the ROM coal (equivalent to quantity of washed coal and coal rejects) in the electronic cash ledger of RVUNL.

(k) The Applicant understands that instead of debiting the Compensation Cess on the total quantity of coal, RVUNL debited Compensation Cess equal to the quantity of the washed coal upon issuance of an invoice by RVUNL, Chhattisgarh to the respective TPS located in the State of Rajasthan, and thereafter, debited the balance Compensation Cess at the time of issuance of an invoice for the coal rejects in the name of the Applicant.

(l) Until 26th July, 2018, the Applicant availed ITC of the Compensation Cess and utilized the same for payment of Compensation Cess on the sale of coal rejects, without collecting the same from the buyer, by issuing a credit note in favour of the buyer for the same.

(m) The above position continued until Notification No. 2/2018-Compensation Cess dated 26th July, 2018 was issued, whereby a new Entry 41A was inserted, which reads as under:

*Coal rejects supplied by 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*

(n) # (the word "no" has been removed vide Corrigendum F. No. 354/255/2018-TRU (Pt-II), dated 2-8-2018) Two conditions are imposed by the aforesaid Notification. They are (i) Compensation Cess is paid on coal and (ii) ITC is not availed of the Compensation Cess so paid. These two conditions are satisfied in this case.

(o) After the said Notification dated 26th July 2018, while the Applicant continued to deposit Rs. 400/- per ton on the total quantity of the coal in the electronic cash ledger of RVUNL, which is a sum of total of



washed coal and coal rejects, the Applicant did not avail of ITC of the Compensation Cess paid by RVUNL and shown in the taxable invoice issued by RVUNL in relation to coal rejects. The Applicant in fact, did not charge or collect Compensation Cess from its customer to whom coal rejects were sold.

(p) While the Applicant showed the payment of Compensation Cess, which was paid after availing ITC of the Compensation Cess paid by RVUNL, the Applicant issued a Credit Note to the customer for the same. The Applicant, in other words, did not collect the Compensation Cess on coal rejects from its customer prior to 26th July, 2018 also.

3. It is in this context that the Applicant is seeking ruling on the following issues:-

- I. Whether Compensation Cess is leviable on total quantity of raw coal or washed coal?
- II. Whether coal rejects supplied by Coal Washery are exempt from levy of Compensation Cess once Compensation Cess on raw coal or, washed coal and coal rejects, as the case may be, is discharged?
- III. If the answer to Question (II) above is in the affirmative, whether subsequent supply (or sale) of coal rejects attracts Compensation Cess?

4. **Personal Hearing:-**

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the Applicant through virtual mode and accordingly their authorized representative Shri Vishal Agrawal (Tax Practitioner), Shri Manish Saxena (Chief Financial officer) & Shri Haresh Nikam (Manager, Corporate Accounts and tax dept) of the applicant appeared for the online hearing before the authority on 31-03-2021 and reiterated their contention.

5. **The legal position, Analysis and Discussion:-**

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act, 2017 and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved seriatim in the ruling so sought by the applicant and the law as applicable in the present case.



5.1 Section 96 of CGST Act, 2017: Authority for advance ruling, stipulates as under:-

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Section 97(2) of CGST Act, 2017 stipulates that:-

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.

Further 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: -
The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only -

- a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
- b. On the concerned officer or the jurisdictional officer in respect of the applicant.

Thus in view of the above section 103 of CGST Act, 2017, the ruling so sought by the Applicant would be binding only on the Applicant and on the concerned officer or the jurisdictional officer as above.

5.2 Now coming to the merits of the case it is seen that Notification No. 01/2017-compensation cess (Rate) dated 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. Serial No. 39 of the Notification No. 01/2017-compensation cess (Rate) dated 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 tone

Thus, 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.

5.3 Notification No.02/2018-Compensation Cess(Rate)dated 26/07/2018, read with corrigendum issued under F.No. 354/255/2018-TRU (Pt-II) dated 2/8/2018 stipulates as under:-

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)
Notification No. 2/2018-Compensation Cess (Rate)
New Delhi, the 26th July, 2018

G.S.R. (E).- In exercise of the powers conferred by sub-section (2) of section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 1/2017-Compensation Cess (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 720 (E), dated the 28th June, 2017, namely:-

In the said notification, in the Schedule, -

(i) after S. No. 41 and the entries relating thereto, the following serial numbers and the entries shall be inserted, namely:-

"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 been availed by any person.	NIL";
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(ii) after S. No. 42 A and the entries relating thereto, the following serial numbers and the entries shall be inserted, namely:-

"42B	87	Fuel Cell Motor Vehicles	NIL".
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2. This notification shall come into force on the 27th July, 2018.

[F. No. 354/255/2018-TRU]

(Gunjan Kumar Verma)

Under Secretary to the Government of India

Note: The principal notification No.1/2017-Compensation Cess (Rate) dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R. 720(E), dated the 28th June, 2017 and last amended vide notification No. 1/2018-Compensation Cess (Rate) dated the 25th January, 2018, published vide number G.S.R.93(E), dated the 25th January, 2018.

5.4 Thus the above Notification prescribes nil 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.

5.5 Now coming to the case in hand, the Applicant in their application has submitted that as per Coal Mining and Delivery Agreement ("CMDA") dated 16th July, 2008, the Applicant would carry out all Works, as defined therein, from identification of techno commercially viable coal blocks to coal mining and arranging for delivery of coal to RVUNL's Thermal Power Station and that the Applicant is required to establish a Coal Washery and deliver the washed coal of the required specifications to RVUNL. Also as per clause 5 of Coal Mining and Delivery Agreement ("CMDA") dated 16th July, 2008 between RVUNL and the Applicant, furnished by the Applicant along with their application, the Applicant is entitled to reimbursement of various expenses such as railway freight, access charges for the delivered coal, service tax and other taxes including any taxes to apply in the future, at actuals, subject to furnishing of documentary evidence. The Applicant has also mentioned in their application, that before the introduction of the GST regime it was agreed by RVUNL that the entire amount of excise duty and clean energy cess leviable on coal and which was RVUNL's liability, would be deposited by the Applicant upfront in the cash ledger of RVUNL, on the entire quantity of raw coal (i.e. the quantity of coal mined by the Applicant before subjecting it to any process of crushing and/or washing). The said amounts of central excise duty / cess were to be later reimbursed at actuals by RVUNL. Applicant's further contention is that this practice has continued even after the introduction of the GST regime, wherein the Applicant deposits upfront in the electronic cash ledger of RVUNL



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Chhattisgarh, the Compensation Cess on the entire quantity of raw coal. The Applicant has further informed that the Compensation Cess deposited upfront in the electronic cash ledger is debited by RVUNL Chhattisgarh against the quantity of washed coal supplied by it to its thermal power station in Rajasthan and that RVUNL Chhattisgarh also debits the Compensation Cess deposited in its electronic cash ledger against the quantity of reject coal at the time of the same being supplied to the Applicant. The Applicant has further submitted that they do not avail any ITC of the Compensation Cess discharged by RVUNL Chhattisgarh on the quantity of reject coal and that likewise RVUNL Rajasthan does not avail ITC on the quantity of washed coal. The entire quantum of Compensation Cess deposited upfront on the quantum of raw coal is appropriated against the Compensation Cess paid on the quantum of washed coal and reject coal. The Applicant, on a back to back basis, has subcontracted the work of mining and washing of coal to AEL, the mining contractor and AEL has set up a Coal Washery close to mine pithead and upon mining of the raw coal, washes the same.

5.6 In this context, it is also observed that the GST Council in its 25th Council Meeting held on 18.01.2018, has in Part M of its recommendation under the caption "Modification in definition/clarification in respect of changes in GST/GST rates on goods" recommended that coal rejects are classifiable under heading 2701 and attract 5% GST and Compensation Cess at the rate of Rs. 400 per metric tonne. Subsequently the GST Council in its 28th Council Meeting held on 21.07.2018 recommended that coal rejects be granted an exemption from the levy of Compensation Cess. The recommendation of the Council reads as under:-

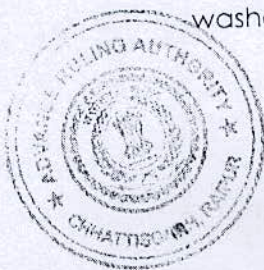
"Exemption from Compensation Cess to coal rejects from washery (arising out of cess paid coal on which ITC has not been taken)"

5.7 It was on the basis of the above recommendation, that the instant Notification No. 2/2018-Compensation Cess dated 26th July, 2018 (read with corrigendum F. No. 354/255/2018-TRU(Pt-II) dated 02.08.2018) was issued, amending Notification No. 1/2017 - Compensation Cess, thereby inserting a new Entry 41A, which read as under -

"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 been availed by any person.	NIL";
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5.8 The Applicant has contended that it is entitled to supply the reject coal without paying any Compensation Cess in terms of Entry 41A of Notification 01/2017-Compensation Cess, as amended, in as much as,

- i. It is a coal washery as in terms of the CMDA, it was required to set up a coal washery, where the raw coal was required to be washed



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ii. the rejects have arisen out of coal on which Compensation Cess liability has been discharged by RVUNL Chhattisgarh at the time of the supply of such coal to its thermal power station in Rajasthan.

iii. no input tax credit has been availed of by RVUNL Rajasthan, as the same is used for generation of power, supply of which is exempt from levy of GST.

5.9 Applicant is further of the view that the entire objective of providing for NIL rate of Compensation Cess was to obviate the need of Compensation Cess being discharged on that part of the raw coal, which ultimately after washing is disposed off as reject coal. Applicant has also contended that the reject coal has arisen out of the coal, which was supplied by RVUNL Chhattisgarh to RVUNL Rajasthan on payment of appropriate Compensation Cess.

5.10 It is in this background that the Applicant has sought ruling on the points supra. In order to have a clear insight in to the aspects involved, it is of paramount importance to analyze the relationship between the two parties involved under CMDA and the contractual arrangement between them. PKCL, the Applicant has entered into a contract for rendering mining services to RVUNL including washing of coal and the Applicant has, in turn, contracted the work of actual mining to AEL, who is the Mining Contractor. The mining contractor raises an invoice for mining services and discharges GST at the rate applicable to services, which is 18%. Thereafter, the Applicant, on a back to back basis, as per the CMDA with RVUNL, raises an invoice on RVUNL. The Applicant levies and collects 18% GST on the mining fee charged by it under the contract.

5.11 As per the conditions envisaged under the contractual CMDA, between the Applicant and RVUNL, the Mining Contractor AEL not only undertakes mining, but has also been entrusted upon with the work of washing of the coal. Accordingly, once the mined raw coal is subjected to the process of washing, emergence of rejects is inevitable in the course of washing of raw coal.

5.12 There is no ambiguity as regards the fact that washed coal and coal rejects are two separate commercial products arising consequent to the process of washing of raw mined coal. It is also seen from the CMDA that both the parties involved viz.. Applicant and RVUNL Chhattisgarh have also separately recognized and dealt with washed coal and rejects in the said CMDA. RVUNL Chhattisgarh transfers washed coal to RVUNL Rajasthan. This is a supply under Section 7 of the CGST Act, 2017. RVUNL Chhattisgarh and RVUNL Rajasthan are distinct persons having separate GST registrations. Consequently, RVUNL Chhattisgarh, as required under law issues a taxable invoice in the name of RVUNL Rajasthan for the quantity of the washed coal supplied. The Applicant have submitted that apart from GST at the rate of 5%, Compensation Cess at the rate of Rs. 400 per metric tonne is also paid and the same



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stands mentioned in the tax invoice issued by RVUNL Chhattisgarh to RVUNL Rajasthan.

5.13 The quantity of rejects remains at the washery. There is no physical movement of the rejects from the washery to RVUNL. The relevant clause in the CMDA on rejects is set out herein.

3.4.1 The company acknowledges that the entire coal mined from the coal block shall, except as provided in Clause no. 4.5.4, also be the property of RVUNL except for the coal washery rejects not exceeding 29% (the "Rejects") which shall be the property of the Company and shall be disposed by the company as determined by the Company's Board of directors.....

5.14 Thus from the CMDA supra, it follows that the Applicant has a right to receive the coal rejects from RVUNL. It also follows from the said CMDA that RVUNL raises a tax invoice in favour of the Applicant for the rejects, to give effect to the above clause in the CMDA. Such tax invoice is evidence of transfer of property in the coal rejects from RVUNL to the Applicant, as contemplated in Clause 3.4.1 of the CMDA. The same constitutes a supply within the meaning of Section 7 of the CGST Act, 2017 on which GST as well as Compensation Cess has to be discharged by the supplier. The Applicant has further submitted that the said tax liabilities are being discharged by RVUNL. The net result from the aforesaid discussion shows that as per the said CMDA, RVUNL as a supplier is duty bound to discharge both GST and the Compensation Cess on the total quantity of the coal mined/raised. It has further been informed by the Applicant in their application that the said total amount payable towards GST and Compensation Cess is deposited by it, the Applicant with RVUNL, which is then paid by RVUNL to the Government and that this is an internal arrangement between them. The law in vogue stipulates that the supplier of coal, has to discharge the full tax liability under the CGST Act, 2017 and the Compensation Cess Act, at the initial stage of supply consequent to raising / mining of raw coal. What is important is that the supplier of coal, which is RVUNL in the present case, has declared that they are paying the appropriate tax and cess on the total quantity of the coal raised / mined, through the mining services received by it from the said mining contractor.

6. As discussed in the preceeding para, Notification No.1/2017-Compensation Cess (Rate) dated the 28th June, 2017, as amended vide Notification No. 2/2018-Compensation Cess dated 26th July, 2018 (read with corrigendum F. No. 354/255/2018-TRU(Pt-II) dated 02.08.2018) by insertion of Sr. No. 41A effective from 27th July, 2018 therein stipulates NIL rate of tax on Coal rejects supplied by a coal washery, subject to fulfillment of the following conditions -

Coal rejects are supplied by a coal washery

Coal rejects must arise out of coal on which Compensation Cess has been paid



No input tax credit of the Compensation Cess paid on coal is availed by any person.

6.1 Clause 3.2.3 of the impugned CMDA covers the aspect of establishment of coal washery and it stipulates that the Applicant shall establish a Coal washery and deliver coal of the required specifications in accordance with the terms and conditions of the Agreement and that the rejects remaining after washing shall be the property of the Applicant. It is also seen that the Applicant in their application before us, at point no. 7 have intimated that the said mining contractor AEL has set up a coal washery close to the mine pithead and upon mining of the raw coal, washes the same. Thus, the obligation to undertake washing under the CMDA squarely lies upon the Applicant and in the instant case the Applicant gets the coal washed by AEL, on sub-contract basis, thereby the obligation to undertake washing is on the Applicant. This is also apparent from the fact that the Applicant raises an invoice on RVUNL for mining services in respect of coal rejects.

6.2 The Applicant have also submitted that the liability of GST including compensation cess stands discharged on the total quantity of coal arising out of mining, which follows that the coal rejects which are supplied by RVUNL to the Applicant are coal rejects arising out of the coal which is mined under the CMDA on being subjected to the process of washing and on such coal rejects liability of compensation cess already stands discharged. The Applicant have further declared that the washed coal is used by RVUNL at its thermal power stations and that GST leviable on electricity is at NIL rate and that accordingly there exist no question of any availment of ITC by RVUNL of the Compensation Cess paid on washed coal. It has also been the contention of the Applicant that likewise the Applicant being a service provider rendering mining services has not taken credit of the Compensation Cess paid on the said coal rejects.

7. As discussed above, Sr. No. 41A of Notification no. 01/2017- Compensation Cess dated the 28th June, 2017 as amended vide Notification no. 02/2018-Compensation Cess (Rate) dated 26/07/2018, read with corrigendum issued under F.No. 354/255/2018-TRU (Pt-II) dated 2/8/2018, effective from 27th July, 2018, in very unambiguous terms provides that NIL rate of Compensation Cess would apply only in the case of coal rejects supplied by a coal washery, arising out of coal on which Compensation Cess has been paid and no input tax credit of the Compensation Cess paid on coal is availed by any person. The expression 'arising out of' would mean 'to originate from' or 'come into being' and the expression 'arise' has been defined in the Concise Oxford Dictionary to mean 'to occur as a result of'. In the facts and circumstances of the present case, the raw coal is the genus of which washed coal and reject coal are subsets. The reject coal arises on account of washing of the raw coal. Thus we are of the considered view that for NIL Compensation Cess to be applicable in terms of the entry at Sr. No. 41A supra, the coal rejects supplied by the Applicant should arise out of the raw coal mined and Compensation Cess on the entire quantity of raw coal mined as applicable has been paid and further that it would not be sufficient compliance of the conditions of Sr. No. 41A of Notification No.



1/2017-CC supra, if Compensation Cess has been paid only on the washed coal and not on the entire quantity of raw coal raised /mined. Besides this for availing the said exemption, input tax credit on the compensation cess so paid on the said raw coal raised should also not be availed by any person.

8. In view of the deliberations and discussions as above, we pass the following order:-

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/04/2021

Raipur Dated 25/05/2021

The ruling so sought by the Applicant is accordingly answered as under:

- i. Compensation Cess is leviable on the total quantity of raw coal raised/mined and not only on the quantity of washed coal.
- ii. Coal rejects supplied by a Coal Washery arising out of raw coal raised / mined, will attract NIL rate of Compensation Cess, only when due Compensation Cess on the total quantity of said raw coal raised / mined stands discharged as also when no Input Tax Credit of the Compensation Cess so paid is availed by any person, in terms of Sr. No. 41A of Notification no. 01/2017- Compensation Cess dated the 28th June, 2017 as amended vide Notification no. 02/2018-Compensation Cess (Rate)dated 26/07/2018, read with corrigendum issued under F.No. 354/255/2018-TRU (Pt-II) dated 2/8/2018, effective from 27th July, 2018.
- iii. As the contract/ agreement relating to the proposed subsequent sale of coal rejects downstream along with the transaction details relating to the same is not forthcoming, this authority is not in a position to pass any ruling on the said supply downstream for want of the desired details.



Sd/-
Sonal K. Mishra
(Member)

Sd/-
Rajesh Kumar Singh
(Member)

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[Signature]
25/5/21
MEMBER
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