

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**

**DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX**

**5<sup>TH</sup> FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,**

**CHENNAI -600 003.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE  
GOODS AND SERVICES TAX ACT, 2017.**

**Members present are:**

1. Shri T.G.VENKATESH, I.R.S., Additional Commissioner/Member,  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Tmt. K.LATHA, M.sc., (Agri) Joint Commissioner (ST)/ Member,  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

**ORDER No. 41 /AAR/2021 Dated: 30 .11 .2021**

GSTIN Number, if any / User id		33AAACW7745D1ZF
Legal Name of Applicant		WEG Industries India Private Limited.
Registered Address / Address provided while obtaining user id		Phase II, Plot No. E20, SIPCOT, Hosur, Krishnagiri, Tamil Nadu, 635 109.
Details of Application		Form GST ARA - 001 Application Sl.No.22/2021/ARA dated 05.07.2021
Concerned Officer		Centre: Salem Commissionerate State: Hosur- North-II Assessment circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Factory/Manufacturing
B	Description (in brief)	The applicant had made an interstate supply of goods to their customers by charging IGST at the rate of 0.1% as per notification number 41/2017 – Integrated tax (rate) Dated October 23, 2017. Notification No. 41/2017 inter alia carries a condition that the customer to whom the goods are sold should export the goods within 90 days from the date of the invoice of the applicant. In the present case, the date of the invoice was 11 March 2020, and

	<p>accordingly, the goods were to be exported on or before 9 June 2020. However, the customer has exported the goods on 10 June 2020 with a delay of 1 day. As per notification no 35/2020 – Central tax Dated April 3, 2020, as amended, in case any action is falling due between the period 20 March 2020 to 30 August 2020, the last date for the completion of such action would fall on 31 August 2020.</p>
Issue/s on which advance ruling required	<p>(ii) applicability of a notification issued under the provisions of the Act</p> <p>(v) determination of the liability to pay tax on any goods or services or both</p>
Question(s) on which advance ruling is required	<ol style="list-style-type: none"> <li>Whether the relaxations provided vide the notification of 35/2020 – Central tax Dated April 3, 2020, for completion of various compliance actions would apply to the time limit provided for the export of goods under notification no. 41/2017 – Integrated tax (rate) Dated October 23, 2017.</li> <li>Whether under the facts and circumstances of the present case, even where the goods were exported on 10 June 2020 with a delay of one day over and above the 90 days specified as under notification no. 41/2017 – Integrated tax (rate) Dated October 23, 2017, the benefit of concessional rate of 0.1% IGST would still be available in view of the extension of time limit granted by notification of 35/2020 – Central tax Dated April 3, 2020</li> </ol>

**Note:** Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act

2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

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WEG Industries India Private Limited, Phase II, Plot No. E20, Sipcot, Hosur, Krishnagiri, Tamil Nadu, 635 109. (herein after called the 'Applicant') is registered under the GST Vide GSTIN 33AAACW7745D1ZF. They have sought Advance Ruling on the following question:

1. Whether the relaxations provided vide the notification of 35/2020 – Central tax Dated April 3, 2020, for completion of various compliance actions would apply to the time limit provided for the export of goods under notification no. 41/2017 – Integrated tax (rate) Dated October 23, 2017.
2. Whether under the facts and circumstances of the present case, even where the goods were exported on 10 June 2020 with a delay of one day over and above the 90 days specified as under notification no. 41/2017 – Integrated tax (rate) Dated October 23, 2017, the benefit of concessional rate of 0.1% IGST would still be available in view of the extension of time limit granted by notification of 35/2020 – Central tax Dated April 3, 2020

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they had sold certain goods to M/s. TPSC India Pvt. Ltd. (*hereinafter referred to as "Customer" or "TPSC"*) having GST registration number 09AABCT1309H1ZK vide invoice numbers 2019100603, 2019100604, and 2019100605 all dated March 11, 2020. Further, on request of the customer they had charged IGST at the concessional rate of **0.1%** in terms of notification no. 41/2017- integrated tax (rate) dated October 2017.

2.2 The applicant has referred to Notification 41/2017 Integrated Tax (Rate) dated 23.10.2017. They have stated that as per the Notification goods can be supplied by a person by charging a concessional rate of 0.1% GST only if the conditions specified under the notification are fulfilled. The applicant has stated that they have satisfied all the conditions mentioned in the notification as detailed below to charge IGST at 0.1%.

- The Applicant is registered supplier and has supplied the goods to M/s. TPSC India Pvt. Ltd. registered recipient; The Customer has indicated the GSTIN of the applicant and the tax invoice number issued by the applicant in respect of the said goods in the shipping bill. Copies of tax invoices and the shipping bills have been furnished;
- The Customer is registered with the Federation of Indian Export Organization and has placed an order with the Applicant for procuring goods at a concessional rate. Further, the Applicant has filed a copy of the order to their jurisdictional tax officer and the Customer has provided to the Applicant, a copy of the shipping bill or bill of export containing details of GSTIN and tax invoice of the Applicant along with proof of export general manifest or export report. These documents have been filed with the jurisdiction officer of the Applicant.;The goods were moved from the place of the Applicant directly to Land Customs Station ('LCS') Raxaul, Bihar
- The only condition that has not been satisfied in the present case is that the goods have not been exported within 90 days from the date of issue of a tax invoice by the Applicant. The table below captures the date of issuance of the invoice, the date of actual export, and the delay:

Invoice number	Invoice Date	Due date of export	Date of export	Delay in days
2019100603	11 March 2020	9 June 2020	10 June 2020	1 Day
2019100604				1 Day
2019100605				1 Day

As can be seen above, the Customer has exported the goods on June 10, 2020, whereas the Customer ought to have exported the goods on or before June 9, 2020, in terms of the conditions specified in the merchant export notification. Accordingly, there has been a delay of only one day in exporting the goods by the Customer.

2.3 The applicant has stated that in view of widespread of the Covid - 19 pandemic and the nationwide lockdown imposed by the Central Government during the period of March 2020 to May 2020, the Central Government had issued notification No. 35/2020-Central Tax dated April 03, 2020 providing relaxations for various compliances/actions to be taken under the Central Goods and Service Tax Act, 2017 and Integrated Goods and Service Tax Act, 2017. In the case where the due date for competing or complying with any action was falling due between March 20, 2020, to June 29, 2020, the Central Government had, vide the relaxation notification, extended the said due date for completion or compliance of such actions up to June 30, 2020. Further, vide Notification No. 55/2020 - Central Tax dated June 27 2020, the said period was extended to cover actions/ compliances due between March 20, 2020, to August 30, 2020, and the due date for such compliances or actions was extended up to August 31, 2020.

2.4 On interpretation of law, the applicant has referred to Section 97(2) and stated that they are seeking a ruling on the question of applicability of a notification issued under the provisions of the Act and hence covered under clause (b) of Section 97(2) of the Act; further the said question also pertains to the determination of liability of GST by them and therefore, covered under Clause (c) of Section 97(2) of the Act; and therefore admissible. The applicant has further referred to Section 168A of the CGST Act, 2017 inserted in the GST Act by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act 2020 and stated that Notification No.35/2020-Central Tax dated 3<sup>rd</sup> April 2020 is issued under Section 168A which has been introduced in the CGST Act by way of an ordinance in order to address the need to provide reliefs to all the businesses that were severely affected by the outbreak of the COVID-19 Pandemic and the nationwide lockdown imposed by the Central Government to control the outbreak. The applicant has stated that the notification No. 35/2020-Central Tax dated April 03, 2020 has been issued exercising powers granted under section 168A of the CGST Act read with section 20 of the IGST Act to provide relaxations for various compliances/actions to be taken under the CGST Act and the IGST Act.

2.5 The applicant has stated that a plain reading of the notification no.35/2020-Central Tax would indicate that it seeks to grant a blanket extension of the time limit for compliance or completion of any action by any person under the GST laws, except for the exclusions contained therein, in cases where the time limit falls



during the period from March 20, 2020, to August 30, 2020. In such cases the time limit stands extended till August 31, 2020, that is to say, that if the completion or compliance of any action is falling due during the period from March 20, 2020, to August 30, 2020, and such completion of compliance of any action is undertaken on or before August 31, 2020, then such action shall be considered as a completed or in compliance with the time limit prescribed or specified or notified under the GST law. The relaxation in time is not applicable to the specific provisions of the Act Chapter IV, Sub-section (3) of Section 10, Section 25, 27, 31, 37, 47, 50, 69, 90, 122, 129; Section 39, except sub-section (3), (4) and (5); Section 68, in so far as e-way bill is concerned; and rules made under the above provisions. They have stated that in the present case, the goods sold by the Applicant to the Customer (who is a merchant exporter) vide invoice numbers 2019100603, 2019100604, and 2019100605 all dated March 11, 2020, by charging 0.1% IGST as per notification 41/2017 Integrated Tax(Rate). Accordingly, the customer was required to export the goods on or before June 9, 2020 (i.e. 90 days from the date of issuance of the invoice). However, due to the nationwide lockdown from the month of March 2020 till June 2020, and the disruption of business activities caused by the widespread of COVID -19, the Customer could not export the goods within the said period of 90 days. The said goods were, however, exported by the Customer on the 91<sup>st</sup> day from the date of issuance of invoice i.e. with a delay of only 1 day. However, in terms of Notification 35/2020 the Customer had exported the goods on 10 June 2020 itself i.e. well within the time limit extended vide the notification. Further, as far as the exclusion clauses of the notification 35/2020 are concerned, the said exclusions are with respect to very specific provisions of the law such as determination of time of supply, registration, furnishing of GSTR – 1 (extension granted through a separate notification), etc. The notification 41/2017 is an exemption notification issued under Section 6 of the IGST Act, which is equivalent to Section 11 of the CGST Act. The above Sections are not covered under the exclusions of the notification 35/2020.

2.6 The Applicant has also relied upon the Circular No. 136/06/2020-GST dated 3 April 2020 regarding clarifications in respect of various measures announced by the Government for providing relief to the taxpayers in view of the spread of COVID-19. In order to ensure uniformity in the implementation of the notification, Para 3 of the said circular seeks to clarify various issues. Sr. no 11 of the said para states as below:

S. No.	Issue	Clarification
11.	The time limit for compliance with some of the provisions of the CGST Act is falling during the lock-down period announced by the Government. What should the taxpayer do?	Vide notification No. 35/2020- Central Tax, dated 03.04.2020, issued under the provisions of 168A of the CGST Act, except for few provisions covered in the exclusion clause, any time limit for completion or compliance of any action which falls during the period from the 20th day of March 2020 to the 29th day of June 2020, and where completion or compliance of such action has not been made within such time, has been extended to 30th day of June 2020.

The above clarification also is very clear that the Notification No. 35/2020- Central Tax, issued under the provisions of 168A of the CGST Act, applies to any time limit for completion or compliance of any action, except for few provisions covered in the exclusion clause, falling during the period from March 20, 2020, to 30 August 2020. They have also relied upon the following case laws regarding interpretations of exemptions/incentives.

- Hon'ble Supreme Court in case of Commissioner of Customs (Preventive) Mumbai v. M. Ambalal and Company, [2010 (260) E.L.T. 487 (S.C.)] The judgment was relied upon by the Hon'ble Supreme Court in the case of CCE, Surat-I v. Favourite Industries [2012 (278) E.L.T. 145 (S.C.)]
- Hon'ble High Court of Andhra Pradesh in the case of GMR Hotels and Resorts Ltd. vs. UOI [2015 (318) E.L.T. 80 (A.P.)]

2.7 In view of the above facts, the applicant is of the view that there is no violation of Notification No. 41/2017- Integrated Tax (Rate) and the goods have been exported within the extended time limit specified in the Notification No. 41/2017 – Integrated tax (rate) Dated October 23, 2017, read with Notification No. 35/2020 – Central tax dated April 3, 2020. Accordingly, the 0.1% IGST charged by them is correct and requires no further action.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing

in Digital media. The applicant consented and the hearing was held on 22.10.2021. The Authorised representative appeared for the hearing and reiterated the written submissions. They stated that they are seeking ruling on the applicability of Notification 35/2020. They were asked to explain as to how the ruling is sought when the action is completed. The representative stated that though the action is completed, considering the tax element, interest etc. involved and the binding nature of the ruling, they had approached the authority. They also referred to Section 95 & 97 of the GST Act and stated that ruling can be sought on activity undertaken or proposed to be undertaken. Their attention was drawn to Section 95 which states as "being undertaken". They were permitted to furnish a write up on their applicability to seek the ruling under Section 95/97 of the GST on or before 31.10.2021.

3.2 The applicant vide their letter dated 27.10.2021 submitted on 25.11.2021 states as under:

- As per the provisions at Section 95(a), 95(c ) and 97(2) of the GST Act, the person should be registered or desirous to be registered; application should be filed for the activity being undertaken or proposed to be undertaken and the question should be covered under Section 97(2) of the Act, for obtaining advance ruling.
- They are registered; the application filed is related to the activity being undertaken i.e., they have sold certain goods to M/s. TPSC India Pvt Ltd vide invoice numbers 2019100603, 2019100604 and 2019100605 all dated March 11, 2020.
- The present application is in relation to the applicants' transaction with the customer is an ongoing transaction wherein the applicant supplies goods to customer as per Notification 41/2017. Thus, as per the provisions of Section 95 of the CGST Act, their application for Advance Ruling is admissible
- The present application is filed for seeking clarification on whether the said period of relaxation provided under Notification 35/2020 is applicable for the delay in export in compliance with Notification 41/2017. Hence, the application filed by them is for clarification on applicability of notification which is covered under Section 97(2)(b) of the CGST Act 2017. Therefore, the application must be admitted and disposed as per the provision of the GST Act 2017



- Circular 138/08/2020-GST dated May 06 2020 issued by CBIC specifically clarifies the issue faced by the applicant i.e. Whether the relaxation provided under Notification No.35/2020 applies to compliance to be undertaken under Notification 41/2017. The circular provides that if the taxpayer did not export the goods within the period given under the merchant exporter notification, and the due date of compliance of exports of goods is covered between the period of March 03, 2020, to June 29, 2020 then in such a case, the date of compliance of export would be extended up to June 30, 2021
- Hence, in the instant case as the goods were exported on June 10 2020, which is will within the time limit of 90 days as per the clarification referred in the circular above, the applicant is eligible for a concerned rate of tax as per Notification 41/2017.

4.1 The State Jurisdictional authority who has administrative control over the applicant has submitted the following remarks on the issue raised in the Advance Ruling application.

- the extension for time limit as per notification No. 35/2020 – Central Tax, is applicable only for the purpose of,
  - a. Completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction, or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above: or
  - b. Filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above, And it is given that The extension will not be applicable for the compliances of the provision of the TNGST Act 2017 as mentioned below.
    - a. Chapter IV,
    - b. Sub section (3) of section 10, sections 25,27,31,37,47,50,69,90,122,129.
    - c. Section 39, expect sub section(3), (4) and (5).
    - d. Section 68, in so far as e-way bill is concerned; and
    - e. Rules made under the provisions specified at clause (a) to (d) above;
- (ii) Where an e way bill has been generated under the rule 138 of the Central Goods and Services Tax Rules, 2017 and its period of validity expires during the period

20<sup>th</sup> day of March, 2020 to 15<sup>th</sup> day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30<sup>th</sup> day of April, 2020.

- This notification shall come into force with effect from the 20<sup>th</sup> day of March, 2020. The concessional rate is based on the time of supply which comes under chapter IV of TNGST Act. Hence the concessional rate is not applicable due to the delay of one day in export of goods.

5.1 The Centre Jurisdictional Authority submitted that there are no pending proceedings in the applicant's case. However, on perusal of the documents furnished by the applicant it was seen that they had submitted certain documents to the Office of the Assistant Commissioner of Customs, Coimbatore in terms of Notification 41/2017 dated 23.10.2017 vide their letter dated 31.05.2021. In this connection, the details of relevant reports/communications between the applicant and the Office of the Assistant Commissioner of Customs, Coimbatore was called for further action. The Customs Preventive Unit, Coimbatore vide their letter dated 21.10.2021 informed that the applicant vide their letter dated 22.12.2020 had informed their office that the applicant is going to dispatch motor spares at GST 0.1% for export rules for deemed export vide Notification 41/2017 to M/s Global International Pvt Ltd, Mumbai. Further, the Coimbatore Customs Preventive Unit has addressed the applicant to furnish the export documents evidencing export of goods supplied by them as above within 90 days from date of issue of tax invoice is over, as prescribed under Notification 41/2017. Accordingly, the applicant furnished the copy of S/Bs and bill of lading for proof of export. Again on 31.05.2021, they have submitted proof of export for their supplies made to M/s. TPSC (India) P Ltd., Uttar Pradesh, as per Notification 41/2017-IGST dated 23.10.2017

6.1 we have carefully considered the submissions of the applicant along with the application and that made after the hearing, remarks of the State Jurisdiction Officer, Hosur North-2; Central Tax Officer; Assistant Commissioner of Customs, Customs Preventive Unit, Coimbatore. We find that the applicant had sold certain goods to M/s. TPSC India Pvt Ltd vide invoice numbers 2019100603, 2019100604 and 2019100605 all dated March 11, 2020 applying the concessional rate in terms of Notification No. 41/2017-IGST (rate) dated October 2017. The applicant has sought ruling on the following question:

1. Whether the relaxations provided vide the notification of 35/2020 – Central tax Dated April 3, 2020, for completion of various compliance actions would apply to the time limit provided for the export of goods

under notification no. 41/2017 – Integrated tax (rate) Dated October 23, 2017.

2. Whether under the facts and circumstances of the present case, even where the goods were exported on 10 June 2020 with a delay of one day over and above the 90 days specified as under notification no. 41/2017 – Integrated tax (rate) Dated October 23, 2017, the benefit of concessional rate of 0.1% IGST would still be available in view of the extension of time limit granted by notification of 35/2020 – Central tax Dated April 3, 2020

We observe that the question raised by the Applicant was for the supply already undertaken by them only. The applicant contends that the said questions are admissible, in as much as the questions relate to the activity being undertaken by them and relates to the ongoing transaction with their customer and seek clarification on the applicability of Notification issued under the Act[97(2)(b)] and the determination of their liability to pay tax[97(2)(c)].

6.2 From the various submissions, it is seen that the applicant had made supply of goods vide Invoice No. 2019100603, 2019100604, 2019100605 all dated 11.03.2020, e-way bills raised and the goods had been dispatched to the recipient. Further, the applicant vide their letter dated 31.05.2021, has submitted the Proof of documents on the supply made by them vide Notification No. 41/2017 dated 23.10.2017 through mail to the Customs Jurisdictional Officer, in respect of the above invoices for which the ruling is sought before us. The applicant has contended that the question is admissible for ruling as the present application is in relation to the applicants' transaction with the customer which is an ongoing transaction wherein the applicant supplies goods to customer as per Notification 41/2017.

6.3 The related Statutory provisions are examined as under:

Section 95 (a) of CGST and SGST Acts 2017 which is reproduced as below:

*(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;*

Section 98(2) of CGST/TNGST Act 2017 is as under:

*(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised 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:*

On a cogent reading of the above provisions, it is evident that

- 'Advance Ruling' are decisions provided on the permitted questions in relation to supplies which are being undertaken or proposed to be undertaken by the applicant;
- The application shall not be admitted when the question raised in the application is already pending or decided in any proceedings in the case of the applicant;

6.4 In the case at hand, from the facts before us, it is found that the question raised is in relation to the supply which had been made by the applicant and the proof of documents of such supply furnished before the concerned authorities for further action as required under Notification No. 41/2017- I.T.(Rate) dated 23.10.2017. The necessary documents have been furnished vide their letter dated 31.05.2021 and the application seeking the ruling is made on 09.07.2021. Thus, it is seen that the issue raised before us pertains to the supply already made and is now pending before the concerned authorities, for verification of fulfillment of conditions stipulated in the Notification No. 41/2017-I.T.(Rate). Thus as per the Proviso to Section 98(2) mentioned above, the question No. 2 raised by the applicant as to whether the benefit of the concessional rate of 0.1% IGST, would still be available to them is not admissible before this authority and we hold so.

6.5 Further, the Question No. 1 seeks the applicability of relaxation provided under Notification No. 35/2020-C.T., to the time-limit provided for the export of goods under Notification No. 41/2017-I.T(Rate). Advance Ruling is applicable to the applicant, his Jurisdictional Officer and the Concerned Officer as per Section 103 of the CGST/TNGST Act 2017. The questions admissible should pertain to the



supply 'being undertaken' or 'proposed to be undertaken' by such applicant only. In the facts presented, it is noticed that supply has been undertaken by the Merchant Exporter and not by the applicant as stated in their submissions. Hence, the applicant cannot seek the ruling for the supply undertaken by the Merchant Exporter and therefore Q.No. 1, which seeks ruling on the applicability of relaxation in the time-limit for export is not admissible and we hold so.


7.1 In view of the above, we rule as under:

**RULING**

The Application for Advance Ruling is not admitted, under sub-section (2) of section 98 of the CGST /TNGST Act, 2017 read with Section 95(a) of the Act for the reasons mentioned in Para 6 above

  
Smt. K. LATHA  
(Member SGST)



  
Shri T.G. VENKATESH  
(Member CGST)

To,  
M/s. WEG Industries (India) Private Limited,  
Phase II, Plot No. E20, Sipcot,  
Hosur, Krishnagiri,  
Tamil Nadu - 635 109 //BY RPAD//

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034.
2. The Principal Secretary/Commissioner of Commercial Taxes,  
IInd Floor, Ezhilagam, Chempauk, Chennai - 600 005.



Copy to:

3. The Commissioner of GST & Central Excise, Salem Commissionerate,  
No.1, Foulkes Compound, Anaimedu, Salem-636 001.
4. The Assistant Commissioner (ST) Hosur North-II Assessment circle,  
Commercial Taxes Building, Bangalore Road,  
Near New Bus Stand,  
Hosur- 635 109
5. Master File/ Spare-2

