



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Taxes)
Sri Sahil Inamdar, Additional Commissioner (Central Taxes)

A.R.Com/07/2024

Date:01.05.2024

TSAAR Order No.08/2024

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s. Noori Travels, 6-2-338/1, Noori Towers, Hill Colony, A.C.Guards, Khairatabad, Hyderabad, Telangana- 500 004 (36AADFN2683D1ZE) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- under SGST and Rs. 5,000/- under CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided nor are pending before any authority under any provisions of the CGST/TGST Act'2017. The application is, therefore, admitted after examining it and the records called for and after hearing the applicant as per section 98(2) of TGST Act'2017.

4. BRIEF FACTS OF THE CASE:

The applicant Noori travels, Registered with GST No. 36AADFN2683D1ZE, provides the services of Transport of passenger services by any Motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.

The applicant paid the GST @5% on the output services, with limited ITC. As per notification.

"The GST to be collecting from recipient @ 5%, provided that credit of Input tax charged on goods and services used in supplying the services, other than the input tax credit of input service in the same line of business (i.e. services procured from another service provider of transporting passenger in motor vehicles or rent of a motor vehicle), has not been taken."

The applicant followed the above said policy till 31.07.2023. Thereafter (w.e.f 01.08.2023) The applicant changed Output tax rate from 5% to 12% with full ITC. In this regard The applicant filed a letter at the GST office.

As a result The applicant collected Output @ 12% and paid to the government with effect from 1.08.23. Further The applicant utilized the Input tax Credit received on input services, goods, and vehicle purchases.

The applicant needs advance ruling in the below mentioned matter.

The applicant purchased a New car "Mercedes Benz CKD v213 e220d Exclusive MY 23 1.0" vide invoice no. T50000000 dated 04.08.2023. from Mercedes-Benz India Pvt Ltd. (Delivered from Adishwar Augo Diagnostics pvt ltd GST No 36AABCM1789L151). In this vehicle purchase The applicant paid GST amount of Rs. 13,94,702 (CGST Rs. 697351 & SGST Rs. 697351). The applicant are proposing to take this GST amount of Rs. 13,94,702 as eligible in put tax credit, and propose to utilized this GST amount of Rs 13,94,702 proportionally over period of 5 Years.

Whereas the applicant verified GST Records (GSTR 2B), the said invoice is uploaded by the supplier in July 2023 GSTR 2B Return, but the purchase invoices issued are dated 4.8.2023 and Sale certificate (form 21) issued as on 4.8.2023.

In this circumstance The applicant needs advance ruling, whether the above said GST amount of Rs, 13,94,702 can be availed as input tax credit .

The applicant attached the following the documents for reference

1) Vehicle purchase invoice copy ,2) Sale Certificate, 3)GSTR 2B Returns July, 2023 ,4) Challan copy , 5)copy of letter submitted at Department regarding GST rate change.

5. QUESTIONS RAISED:

1. Whether we consider the above said GST amount of Rs, 13,94,702 as a input tax credit and eligible for utilization.?

6. PERSONAL HEARING:

A personal hearing notice was issued to the applicant to appear for personal hearing on 08-04-2024. Sri M. Karunakar Rao, Authorised Representatives has appeared and argued the case.

The Authorised Representatives reiterated the contentions already submitted along with the application.

Further, the Authorised Representative/Applicant M/s. Noori Travels, Hyderabad reiterated that their case /Similar Case is not pending in any proceedings in the applicant's case under any of the provision of the Act and have not already decided in any proceedings in the applicant's case under any of the provisions of the Act.

7. DISCUSSION & FINDINGS:

As seen from the factual information submitted by the applicant the following can be inferred:

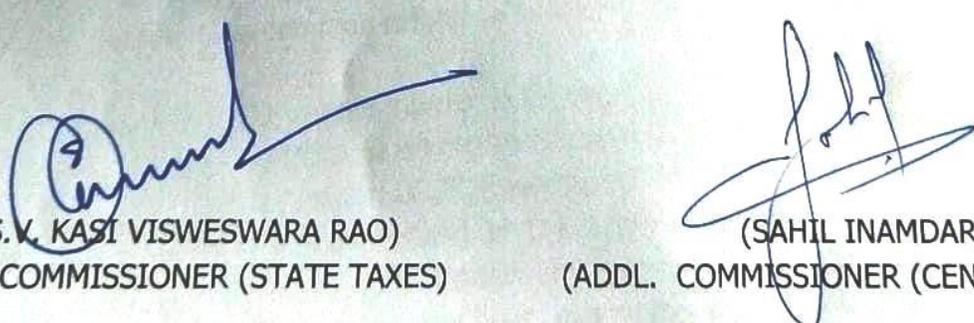
1. The applicant has paid tax for the passenger transport service by road under SAC heading 9964@ serial number 8 of the notification 11 of 2017 under sub entry vi. Therefore the applicant has paid tax at the rate of 2.5% CGST+2.5% SGST without taking credit of input tax charged on goods and services used in supply of the service up to 31 7 2023.
2. The applicant is paying tax at the rate of 6% CGST+6% SGST after availing input tax credit under the same sub entry as provided by notification 31 of 2017 dated 13-10-2017 and 20 of 2017 dated 22/8/2017.

3. The applicant purchased a motor vehicle and the details of purchase were reported in GSTR-2B in the month of July 2023. The applicant avers that the original invoice was issued on 4/8/20123 that is in the month of August and therefore they would like to claim input tax credit on this invoice which was raised on them in the month of August 2023 that is during the month in which they have opted to pay higher rate of tax with ITC.
4. The applicant by opting to pay tax at a lower rate by not availing input tax credit on the goods and services used in his supplies has forfeited his right to avail input tax credit on the goods and services procured by him during the earlier period. The car purchased by him was reported by the supplier in his GSTR- 01 in the month of July under section 37 of the CGST Act and the applicant was communicated this invoice in his gstr 2B return. The statutory returns filed on the common portal stand on a higher pedestal as evidence when compared to the physical invoice adduced by the applicant. Therefore it is concluded that the supply of car was made in the month of July 2023 when the applicant was still availing the lower rate of tax on his supplies by forfeiting is right to claim input tax credit on purchase of goods and services and hence the ITC pertaining to the purchase of car is not available to the applicant.

8. In view of the foregoing, we rule as follows:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Whether we consider the above said GST amount of Rs, 13,94,702 as a input tax credit and eligible for utilization.	No.



(S. K. KASI VISWESWARA RAO)
(ADDL. COMMISSIONER (STATE TAXES))

(SAHIL INAMDAR)
(ADDL. COMMISSIONER (CENTRAL TAXES))

[under Section 100 (1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this order]

To
M/s. Noori Travels, 6-2-338/1,
Noori Towers, Hill Colony, A.C.Guards,
Khairatabad, Hyderabad, Telangana- 500 004.

Copy submitted to :

1. The Commissioner (State Taxes) for information.
2. The Commissioner (Central Taxes), Hyderabad Commissionerate, GST Bhavan, Hyderabad, Telangana - 500004.

Copy to:

3. The Superintendent (Central Taxes) Somajiguda Range.