

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

4, Vibhuti Khand, Gomti Nagar, Lucknow

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

Sub:- GST ACT, 2017 – Advance Ruling U/s 98 – liability to tax under GST Act in respect to application dated 27.08.2018 from M/s Shiva Goods Carrier Private Limited, , Lucknow, Uttar Pradesh – Order– Reg.

1) M/s Shiva Goods Carrier Private Limited, Plot No-5, Khargapur, Ram Asrey Ka Purwa, Chinhut, Lucknow, Uttar Pradesh, 227105 (here in after called the applicant) is a registered assessee under GST having GSTN : 09AAMCS4020K1Z5.

2) The Applicant intends to Trade 'Wood and Wood Waste' (Purchasing Eucalyptus/Poplar wood from farmers and selling the same to Plywood manufacturers and Purchasing Eucalyptus/Poplar wood waste from farmers and selling the same to MDF Board manufacturers).

3) The Applicant has submitted application for Advance Ruling dated 27.08.2018 enclosing duly filled Form ARA-01(the application form for Advance Ruling) along with annexure and attachment.

4) The Applicant in his application sought following question for determination by the Authority –

Whether the applicant can dispatch the commodity of Eucalyptus/Poplar wood at the time of supply through Delivery Challan, which is supplied by him and the tax invoice be issued later after the goods is delivered and measured by the purchaser?



5) The applicant was granted a personal hearing on 14.11.2018. Shri Om Kumar, Advocate and Shri Jairam Srivastava, Advocate, Authorized representatives appeared for hearing. During the personal hearing party submitted/intended:-

that their request may be decided on the basis of material/submission along with the application.

6) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report:-

i) The Applicant submitted that the applicant is duly registered at Plot No- 5, Khargapur, Ram Asrey Ka Purwa, Chinhut, Lucknow, Uttar Pradesh under GST law vide Reg. No.- 09AAMCS4020K1Z5 with effect from 01/07/2017 and is involved in the business activity of Purchase and Sales of Eucalyptus/Poplar wood & wood waste.

ii) The Applicant also submitted that the applicant is purchasing Eucalyptus/Poplar wood from farmers and more than ninety percent of the said commodity is supplied by the applicant to M/s Balaji Action Buildwel, Sitarganj, Udham Singh Nagar, Uttarakhand who is also a registered dealer of Uttarakhand State under GST law and the due Tax under GST is charged and deposited by the applicant.

iii) That at present the goods is supplied through Tax Invoice with all other required formalities in accordance with GST law but the same goods were also supplied by the applicant in VAT regime and the delivery of goods was made first through Challans and only a single Tax Invoice was raised in a particular month because the quantity of goods in weight which is supplied by the applicant is always



different in weight when the delivery of goods is made at the end of purchaser at Uttarakhand and the terms of supply in this commodity is generally that the payments of the goods are made on the weight received by the purchaser as the goods has a high volume of moisture and weight is rapidly short due to air drying.

iv) It was submitted that the commodity of Eucalyptus/Poplar wood is a product in nature which is dealt by the appellant is of a kind in which the applicant has to face moisture/weight loss because this kind of commodity of Eucalyptus/Poplar wood having maximum content of moisture and suppose after measurement when it is supplied from Lucknow in 200 Quintal and later on when the goods is delivered at Sitarganj, Udham Singh Nagar, Uttarakhand the measurement is always different in weight when the same is measured by the purchaser, only because of moisture. In maximum number of cases of delivery of said goods, there is moisture loss and due to this moisture loss there is weight difference and hence value of goods is varied than mentioned in Tax Invoice.

v) They submitted that the applicant is supplying the Eucalyptus/Poplar wood to M/s Balaji Action Buildwel, Sitarganj, Udham Singh Nagar, Uttarakhand through tax invoice in GST but later on the Debit and Credit notes are being issued as the case may be for each and every transaction of supply for which Tax Invoices have already been raised by the applicant, only because of reason of weight difference from the place of goods dispatched and till the goods is delivered at the end of purchaser and lot of complexities in accounting and paper formalities are being faced by the applicant in present GST regime. During filing of monthly returns it creates major problem as the no. of debit/credit notes are normally equal to the no. of tax invoices raised by the applicant which may be verified by the GSTR-1 filed by the applicant till



date and this heavy no. of tax invoice/debit note/credit note also put a pressure on the departmental website.

vi) They submitted that according to CGST rules there are specific provisions laid down regarding transportation of goods without Issue of invoice and in continuation of same the RULE 55 (4) of CGST rules says:-

"Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods."

vii) The Applicant submitted that this has already been explained above that in the case of applicant this is not possible to raise the tax invoice for accurate quantity of commodity supplied by the applicant which is only Eucalyptus/Poplar wood and having moisture content and there is always difference in quantity from the place where the same was loaded and measured to the destination where the same is unloaded after measurement.

viii) It is submitted That for the convenience of applicant this would be better to dispatch the goods at the time of supply through Delivery Challan in accordance with the RULE 55 (4) of CGST rules and to raise Tax Invoice when the goods is measured at the destination of purchaser to avoid unnecessary paper formalities regarding issue of Debit and Credit Notes for each and every Tax Invoice issued at the time of supply.



DISCUSSION AND FINDING

We have heard the Case, gone through the grounds of the appeal as well as the submissions made during the personal hearing.

We observe that the applicant sought Advance Ruling on the following issue:-

Whether the applicant can dispatch the commodity of Eucalyptus/Poplar wood at the time of supply through Delivery Challan, which is supplied by him and the tax invoice be issued later after the goods is delivered and measured by the purchaser?

We observe that the Section 97(2) of the GST Act specifies the question on which Advance Ruling is sought, shall be in respect of the following :-

- 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.

On examination of Section 97(2) vis-à-vis the application of party we observe that the question raised by applicant on which Advance Ruling is being sought does not come under the ambit of the specification as provided by the Section 97(2) of the GST Act.



In view of the above, both the members unanimously rule as under;

RULING

The question on which Advance Ruling is sought is beyond the jurisdiction of this authority, as it is beyond the domain of sub section 2 of section 97 of CGST Act, 2017 and SGST Act, 2017.

Therefore, the application is **“not admitted”** under sub section 2 of section 98 of CGST Act, 2017 and SGST Act, 2017.


Vivek Kumar Jain

Member of Authority for Advance
Ruling


R K Khandelwal

Member of Authority for Advance
Ruling



To,

M/s Shiva Goods Carrier Private Limited,
Plot No-5, Khargapur,
Ram Asrey ka Purwa,
Chinhut, Lucknow,
Uttar Pradesh-227105.

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 16

Date: 19.11.2018

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Deputy Commissioner, CGST & Central Excise, Division-I, Lucknow, Uttar Pradesh;
4. Through the Additional Commissioner, Commercial Tax, Lucknow, Uttar Pradesh to jurisdictional tax assessing officers.

