

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 31.10.2018 from Mr. Sheetal Tyagi, Ghaziabad, Uttar Pradesh – Order– Reg.

1) Mr. Sheetal Tyagi, Flat No. 140 Saraswati Tower, Mahagun Puram, NH-24, Meherauli Ghaziabad, Uttar Pradesh, 201002 (here in after called the applicant) is an unregistered person under GST having TRN: 091800001064ART.

2) The Applicant is service recipient of third party maintenance services.

3) The Applicant has submitted application for Advance Ruling dated 31.10.2018 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 members of RWA are liable to pay GST on the services received by them directly from the third party despite maintenance charges being less than Rs. 7,500/- per month?

5) The applicant was granted a personal hearing on 03.01.2019. Shri Sheetal Tyagi, Advocate Authorized representatives appeared for hearing. During the personal hearing party submitted:-

that he has already submitted his written submission dated 26/10/18 along with his application and he would like to reiterate the same.

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

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 members of RWA are liable to pay GST on the services received by them directly from the third party despite maintenance charges being less than Rs. 7,500/- per month?

As per Section 95 (a) of CGST/SGST Act, 2017 Advance Ruling is defined as-

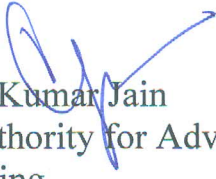
"Advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken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

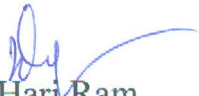
From the above, it is clear that applications for the advance ruling should be directly related to applicant in respect of supply of goods or services. In the instant case applicant is a recipient of services and not the supplier of the said services, since the applicant has sought ruling which is directly related to supplier of services, their application do not fall under the ambit of Section 95(a) of the Act.

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

RULING

The ruling cannot be given as the matter does not fall within the purview of "Advance Ruling" in term of Section 95 (a) of CGST/SGST Act, 2017.


Vivek Kumar Jain
Member of Authority for Advance
Ruling


Hari Ram
Member of Authority for Advance
Ruling

To,

M/s Sheetal Tyagi,
140, Sarasvati Tower, Mahagun Puram,
NH-24, Meherauli, Ghaziabad,
Uttar Pradesh 201002.

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Order No. 23

Date: 25/01/2019

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 Commissioner, CGST & CEX, Ghaziabad, Uttar Pradesh;
4. The Deputy Commissioner, CGST & Central Excise, Division-I, Ghaziabad, Uttar Pradesh;
5. Through the Additional Commissioner, Commercial Tax, Ghaziabad, Uttar Pradesh to jurisdictional tax assessing officers.