

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH**

4, Vibhuti Khand, Gomti Nagar, Lucknow-

ADVANCE RULING NO. UP ADRG - 13/2022 DATED 14/10/2022
PRESENT:

- 1. Shri Rajendra Kumar**
Additional Commissioner, Central Goods and Service Tax
Audit Commissionerate, Lucknow Member (Central Tax)
- 2. Shri Vivek Arya**
Joint Commissioner, State Goods and Service Tax Member (State Tax)

1.	Name of the Applicant	M/s BVN TRADERS(GSTIN-09AATFB5846Q1ZD) Address-7/17, Siddarth Villa, Parwati Bangla Road, Tilak Nagar, Kanpur, Uttar Pradesh-208002
2.	GSTIN or User ID	09AATFB5846Q1ZD
3.	Date of filing of Form GST ARA-01	13.07.2022
4.	Represented by	Mr. Santosh Kumar Gupta (C.A. & Authorized representative)
5.	Jurisdictional Authority-Centre	Commissionerate-Kanpur, Division-III, Range-XVI
6.	Jurisdictional Authority-State	NA
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes RBIS22060900142133

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. M/s BVN Traders, a proprietor, registered with GST vide GSTIN 09AATFB5846Q1ZD under trade name M/s BVN TRADERS bearing principal address at 7/17, Siddarth Villa, Parwati Bangla Road, Tilak Nagar, Kanpur, Uttar Pradesh-208002 (hereinafter referred as "the applicant") is a firm engaged in buying and selling of "Duty Credit Scrips". For this purpose it is holder of IEC code issued by the Ministry of Commerce and Industry of Government of India.

2. The applicant has submitted application for Advance Ruling dated 13.07.2022 enclosing duly filled Form ARA-01 (the application form for Advance Ruling) along with annexure and attachments.

3. The applicant in his application has sought advance ruling on following question-

(i). Whether Duty Credit Scrips issued under RoSCTL scheme issued by Directorate General of Foreign Trade is taxable or exempt under GST schedule I, Sl. No.-122A HSN code 4907?

(ii). Whether Notification No. 35/2017-Central Tax (Rate) dated 13th October 2017 is applicable to all duty credit scrips or not?"

4. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

The applicant has submitted that-

(a). It is a firm engaged in buying and selling of "Duty Credit Scrips". For this purpose it is holder of IEC code issued by Government of India, Ministry of Commerce and Industry.

(b). Advance ruling is being sought upon taxability of duty credit scrips issued under RoSCTL scheme issued by Directorate General of Foreign Trade. Notification No. 35/2017-Central Tax (Rate) dated 13th October 2017 has been issued by the Ministry of Finance through which entry no. 122-A has been inserted which clearly exempts the duty credit scrips under HSN Code 4907.

(c). Clarification is being sought whether duty credit scrips issued under RoSCTL scheme is issued by Directorate General of Foreign Trade is taxable or exempt under aforesaid notification and GST schedule-1, entry number-122A, HSN Code 4907.

4.1 The applicant has submitted their interpretation of law as under-

(a). All the duty credit scrips are exempt under GST no matter under scheme they have been issued as the Notification No. 35/2017-Central Tax (Rate) dated 13th October 2017 specifies the phrase "duty credit scrips" and it seems to be an inclusive list no matter under what scheme they have been issued.

(b). . Duty credit scrips issued under RoSCTL scheme issued by Directorate General of Foreign Trade is just like other duty credit scrips like MEIS/SEIS. The only difference is that RoSCTL is specific to textile industry. Therefore as per us, duty credit scrips issued under RoSCTL scheme should be exempted.

4.2 Details of Facts are as under:

(1). "Duty credit scrips" nomenclature under HSN Code 4907 is zero tax rated under Serial No. 122(A) of Schedule 1 of G.S.T. Duty credit scrips has been inserted vide Notification No. 35/2017 Central Tax (Rate) dated 13.10.2017. Hence it is tax free from 13.10.2017.

(2). It is also worth mentioning here that the term Duty Credit Scrips has been used in Schedule I of GST because it is a wide term. All types of duty Credit Scrips come under this classification irrespective of whether it is issued by Customs/DGFT in respect of any particular item. The jurisdiction for adjustment/exemption of duty is vested in the RoSCTL Duty Credit Scrips. It is transferable. Duty credit and transfer are clearly

mentioned in its license. These are exempted from tax under S.No. 122A of Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017.

(3). It may further be mentioned that duty credit scrips have been considered as under:

A DCS provides tax incentive on exports, which can be used by exporter to set off their import duties. It is issued under the Merchandise Exports from India Scheme (MEIS), Service Exports from India Scheme (SEIS). FTP 2015-20 lays down the features and provisions related to DCS. The scheme is implemented and administered by the Ministry of Commerce and Industry, Govt. of India in association with the Directorate General of Foreign Trade.

What are the uses of Duty Credit Scrips?

DCS can be used by an exporter to pay their tax liabilities. It can be used against tax liabilities arising out of Basic Custom Duty, Additional Customs Duty, Safeguard Duty, Transitional Specific Safeguard Duty, and Anti-dumping Duty. DCS can be transferred to others, but it cannot be used to set off GST, Compensation cess and Education Cess.

- From the date of issue, a DCS remain valid for 24 months. But the benefits don't need to cease after two years.
- If the exporter does not have a foreseeable use of the DCS within the validity period, they can always transfer it to another person who can use it against their own outstanding tax liability.
- Additionally, the DGFT can also revalidate a DCS if the exporter submits a special request under exigent circumstances.

It is clear that the duty credit scrips are the instruments to award incentives to the exporters with the objective of the export promotion by allowing them to set off the Basic Customs Duty against it. It is also to be noted that the duty credit scrips are not allowed to set off the IGST, CGST/SGST liability.

(4). That is why a frequently asked question (FAQ) in this regard has been issued by Custom's "ICE GATE" under "RoSCTL" scheme have been clarified. In its page number 4, the following question and answer explains the legal recognition of Duty Credit Scrips in relation to "RoSCTL".

Q.(a) Would "RoSCTL" scrips be transferable to any other person?

Ans. Yes, the duty credit scrips issued under "RoSCTL" scheme would be transferable to any other person having a valid IEC and valid ICEGATE Registration.

Q.(b) Is the transfer of duty credit in part permissible?

Ans The duty credit available in an e-scrip shall be transferred at a time for the entire amount in the said e-scrip to another person and transfer of the duty credit in part shall not be permitted.

Q.(c) Will the transfer of e-scrip alter the validity of the e-scrip?

Ans The period of validity of the e-scrip, of one year from the creation, shall not change on account of transfer of the e-scrip.

Q.(d) Which are the duties and taxes against which “RoSCTL” benefit can be utilized?

Ans The duty credit issued under the “RoSCTL” scheme and available in the electronic duty credit ledger shall be used for payment of duties of customs leviable under the First Schedule to the Customs Tariff Act, 1975(51 of 1975) on goods when imported into India. It cannot be utilized towards payment of any other taxes like IGST, Compensation Cess etc. upon the import of goods.

4.3. That the Circular No. 46/20/2018-GST dated June 06, 2018 has been issued by the Tax Research Unit, Government of India Ministry of Finance, Department of Revenue. It is clear from para No. 7 of this Circular that the duty credit scrips, however, attract Nil GST under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017. This para-7 is as follows.

Accordingly, in modification of S.No. 3 of Circular No. 34/8/2018- GST dated 01.03.2018, it is hereby clarified that Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs) and other similar documents are classifiable under heading 4907 and attract 12% GST. The duty credit scrips, however, attract Nil GST under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017.

That the Maharashtra Appellate Authority for Advance Ruling for Goods & Service Tax has given a decision on 13-03-2019 to the same effect that duty credit scrips going through any particular item or rules, in which the jurisdiction of Customs Duty and its use, transfer is vested. It is exempted from tax vide Notification No. 35/2017-C.T.(Rate) dated 13-10-2017 under serial number 122A. “DFIA” Duty Free Import Authorization in the case in question in which the duty is vested. The important portions are as under:-

4.4 The Appellant also referred to the CBEC Circular issued vide letter dated 06-06-2018 has clarified the GST rate applicable on Priority Sector Lending Certificate (PSLC), Renewable Energy Certificate (REC) and other similar scrips. The relevant para 6 and 7 are reproduced below:

.....

6. As such, various certificate likes REC, PSLC, etc. are classified under heading 4907 and will accordingly attract GST @ 12%, through duty paying scrips classifiable under the same heading will attract Nil GST (under Sr. 122-A of the Notification No. 2/2017-central Tax (Rate) dated 28-06-2017, as amended vide Notification No. 35/2017 dated 13-10-2017.

7. Accordingly, in modification of Sr. No. 3 of Circular No. 34/08/2018-GST dated 01-03-2018, hereby clarified that renewable energy certificate (REC) and Priority Sector Lending Certificate (PSLC) and other similar documents are classifiable under heading 4907 and will attract 12% GST. The Duty Credit Scrips, however, attract Nil GST under Sr. No. 122A of Notification No. 2/2017-C.T. (Rate) dated 28-06-2017.

4.5 On perusal of the Para 6 above of the said circular, it can be concluded that GST at the rate of 12% is being levied on such certificates as REC, PSLC, which are not related to the payment of Custom Duty and in no way related to the export or to incentivize the exporters of India. Rather these certificates incentivize the domestic Entrepreneur, who are investing capital into such field which is in the interest of the mankind and environment. Therefore, the DFIA, which are similar to the duty credit scrips in terms of the functionalities and

significance in the export promotion, cannot kept together with such REC and PSLC by applying the role of interpretation of Noscitur a "RoSCTL" into the phrase "as such, various certificates like REC, PSLC, etc." of the circular cited above in para 12.

Thus on plain reading of the Para 6 & 7 of the said circular reproduced above, it is conspicuous that the Board, while clarifying the same of classification of the various certificates and scrips and taxability thereon, has used the "Duty paying scrips" and "duty credit scrips" interchangeably in Para 6 & respectively. Thus, assuming the significance and relevance of the each word and phrase, that the legislation contains and on the belief that each and every word or phrase in any legislation has to be given the significance and weight that they deserve, we are compelled to interpret that the both the words duty paying scrips and duty credit scrips are to be construed same

Thus from the above discussion, we conclude that the DFIA, also popularly known as duty paying scrips in the trade parlance, as discussed above, it equivalent to the duty credit scrips so far as the tax treatment thereon are concerned and accordingly, there will be Nil GST on the sale or purchase of DFIA as provided at Sl.No. 122-A of the Notification 02/2017-C.T. (Rate) dated 28-06-2017 as amended by the Notification NO. 35/2017-C.T.(Rate) dated 13-10-2017.

5. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. The Deputy Commissioner, Kanpur, Sector-16, Kanpur (C), Kanpur-II, Uttar Pradesh vide his letter dated 01.08.2022 submitted that Circular No. 46/20/2018-GST dated 06-06-2018 para 6 clearly said that PSLCS, RECS and other similar scrips are classified under heading 4907 and will accordingly attract GST @ 12% on duty paying scrips classifiable under the same heading will attract Nil GST (under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, as amended vide Notification No. 35/2017-Central Tax (Rate) dated 13.10.2017). The ROSTCL is "not duty paying scrips it is only a pass" so not same as MEIS, SEIS (Duty Credit Scrips).

5.1 The Assistant Commissioner, CGST, Central Excise Div. III, Kanpur, vide his letter C.No. GEXCOM/Tech/2337/2022-Tech-CGST-DivIII-KNPR-Comm/53 dated: 09.09.2022 submitted the following:

The Duty Credit Scrips was taxable w.e.f. 01.07.2017 to 13.10.2017 i.e. before the insertion of Sl.No.122A in the Schedule under HSN-4907: Duty Credit Scrips.

It is to mention that no nomenclature was provided by the party. The Rebate of State and Central Taxes and Levies (ROSCTL) Scheme is a new scheme introduced by the Ministry of Commerce. Currently, it appears that ROSCTL scheme is only valid for garments and made-ups (i.e., Chapter 61, 62 & 63).

As per Public Notice No. 58/2015-20 Dated 29.01.2020, Merchandise Exports from India Scheme (MEIS) has also been withdrawn for Export items falling under Chapter- 61, 62 & 63, w.e.f, 07.03.2019.

The Notification No. 35/2017-Central Tax (Rate) dated 13.10.2017 was issued by making further amendment in Notification No.02/2017-Central Rate (Tax) dated 28.06.2017, the amendment is as under:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No. 35/2017-Central Tax (Rate)

New Delhi, the 13th October, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 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.2/2017-Central Tax (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. 674(E), dated the 28th June, 2017, namely:-

In the said notification,-

(A) in the Schedule,-

(i) after S. No. 122 and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

"122A	4907	Duty Credit Scrips";
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[F.No.354/117/2017-TRU (Pt. III)]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: - The principal notification No.2/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 674(E), dated the 28th June, 2017 and last amended by Notification No. 28/2017-Central Tax (Rate) dated 22nd September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number GSR 1190 (E), dated the 22nd September, 2017.

The contents of Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017, which is as under:

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (1) OF THE GAZETTE OF INDIA,
EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No.2/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the

Council, hereby exempts intra-State supplies of goods, the description of which is specified in column (3) of the Schedule appended to this Notification, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule, from the whole of the central tax leviable thereon under section 9 of the Central Good and Services Tax Act, 2017 (12 of 2017).

Schedule

2. This Notification shall come into force with effect from the 1st day of July, 2017.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

In view of the above, the issue raised by the applicant is in affirmative i.e. -Duty Credit Scrips (Specific entry) issued under ROSCTL issued by the Directorate General of Foreign Trade is exempted. The corresponding entry was also Inserted vide Notification No. 36/2017-Integrated Tax (Rate) dated 13.10.2017.

Question: Whether Notification No.35/2017-Central Tax (Rate) dated 13.10.2017 is applicable to all duty credit scrips or not?

Answer: Yes. It appears that it is applicable to all the duty credit scrips . It is pertinent to mention that only specific entry has been exempted i.e. Duty Credit Scrips.

To strengthen the view, it to mention that an entry was inserted at Sl.No. 157B in Schedule-III in Notification No. 08/2021-Central Tax (Rate) dated 30.09.2021, the relevant portion is reproduced below:

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,

SECTION 3, SUB-SECTION (1)]

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

Notification No. 8/2021-Central Tax (Rate)

New Delhi, the 30th September, 2021

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 9 and subsection (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 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-Central Tax (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. 673(E)., dated the 28th June, 2017, namely:-

In the said Notification, -

(a) in Schedule I-2.5%,

(b) in Schedule II-6%,

(c) in Schedule III-9%, -

after c(i), (ii), (ii) &(iv) after S. No. 157 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

"157A.	4906 00 00	Plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, being originals drawn by hand; hand-written texts; photographic reproductions on sensitised paper and carbon copies of the foregoing.
157B	4907	Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title (other than Duty Credit Scrips).

2. This Notification shall come into force on the 1st day of October, 2021.

[F.No.190354/206/2021-TRU]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, and was last amended by notification No. 01/2021 - Central Tax (Rate), dated the 2nd June, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 374(E), dated the 2nd June, 2021.

Earlier it was in the Schedule II, having GST rate of 12% (S.No.128 of Schedule II-NN 01/2017-Central Tax (Rate) dated 28.06.2017.

6. The applicant was granted a personal hearing on 14.09.2022 which was attended by Mr. Santosh Kumar Gupta and Mr. Shubham Agarwal, Advocate, Authorized Representatives during which they reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

7. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

8. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issue on which advance ruling required-

"1. Whether Duty Credit Scrips issued under RoSCTL scheme issued by Directorate General of Foreign Trade is taxable or exempt under GST schedule I, sl. No.-122A HSN code 4907?

2. Whether Notification No. 35/2017-Central Tax (Rate) dated 13th October 2017 is applicable to all duty credit scrips or not?"

9. Before proceeding the issue we would like to discuss the nature and details of the ROSCTL scheme in brief:

9.1 INTRODUCTION OF RoSCTL SCHEME:

Vide Notification No. 14/26/2016-IT(VOL.II) dated 07.03.2019 of the Ministry of Textiles, the Government of India has introduced a new Scheme namely "Scheme for Rebate of State and Central Taxes and Levies [hereinafter referred to as "RoSCTL"] on Export of Garments and Made-ups.

- This Scheme has been introduced as a replacement of previous Rebate of State Levies (RoSL) Scheme which provided only rebates of state taxes. Vide aforesaid notification dated 07.03.2019, the RoSCTL Scheme were made effective from the date of Notification i.e. w.e.f. 07.03.2019 with an expiry date of 31.03.2020 which has now been extended up to 31.03.2024.
- Prior to introduction of the RoSCTL scheme, the Apparel and made-ups sectors were supported under the Scheme for Rebate of State Levies (RoSL) for apparel, notified vide Notification No. 12020/03/2016-IT dated 12.08.2016 and for made-ups, notified vide Notification No. 12015/47/2016-IT dated 03.01.2017. However, certain State as well as Central Taxes continued to be present in the cost of exports. Accordingly, in pursuance of the decision of the Government of India to rebate all embedded State and Central Taxes and Levies on garments and made-ups to enhance competitiveness of these sectors, the RoSCTL Scheme was notified by the Ministry of Textiles and the existing RoSL Scheme was discontinued w.e.f. from 07.03.2019.
- Rebate of State Taxes and Levies comprises of VAT on fuel used in transportation, captive power, farm sector, mandi tax, duty of electricity, stamp duty on export documents, embedded SGST paid on inputs such as pesticides, fertilizers etc. used in production of raw cotton, purchases from unregistered dealers, coal used in production of electricity and inputs for transport sector.
- Rebate of Central Taxes and Levies comprises of central excise duty on fuel used in transportation, embedded CGST paid on inputs such as pesticides, fertilizer etc. used in production of raw cotton, purchases from unregistered dealers, inputs for transport sector and embedded CGST and Compensation Cess on coal used in production of electricity.
- The sectors covered under this scheme (apparel/garments and made-ups) would not get benefits under the Remission of Duties and Taxes on Exported Products (RoDTEP) scheme. However, textiles products which are not covered under the RoSCTL would be eligible to avail the benefits, if any, under RoDTEP along with other products as finalised by the Department of Commerce.

9.2 EXTENSION OF RoSCTL SCHEME

Vide notification No. 14/26/2016-IT (Vol.II) dated 07.03.2019, the Ministry of Textiles notified the RoSCTL Scheme for Rebate of State and Central Taxes and Levies (RoSCTL) which was initially in force up to 31.03.2020.

- However, vide Notification No 12015/11/2020-TTP dated 17.04.2020 of the Ministry of Textiles, the Government of India decided to continue the RoSCTL Scheme w.e.f. 01.04.2020 until such time that the RoSCTL Scheme is merged with Remission of Duties and Taxes on Exported Products (RoDTEP) Scheme without any change in Scheme guidelines

and rates, as notified vide Ministry of Textiles' Notification Nos. 14/26/2016-IT (Vol.II) dated 07.03.2019 and 14/26/2016-IT (Vol.II) dated 8.3.2019, respectively.

- Further, the Government, vide MOT Notification No. 12015/11/2020-TTP dated 13.08.2021 decided to continue the RoSCTL Scheme w.e.f. 01st January 2021 till 31st March 2024 for apparel/garments (under Chapter 61 and 62) and Made-ups (under Chapter 63) in exclusion of RoDTEP for these Chapters with the rates, as notified by the Ministry of Textiles vide Notification no.14/26/2016-IT (Vol.II) dated 08th March 2019 subject to review of rates periodically.
- The other textiles products (excluding Chapter 61, 62 and 63) which are not covered under the RoSCTL shall be eligible to avail the benefits, if any, under RoDTEP along with other products, as to be finalised by Department of Commerce. Vide Notification No. 12015/11/2020-TTP dated 13.08.2021 of the Ministry of Textiles also issued a revised Guidelines for Continuation of RoSCTL Scheme.
- The Scheme shall be implemented by Department of Revenue with end-to-end digitization for issuance of transferable Duty Credit Scrip, which will be maintained in an electronic ledger in the Customs automated system.
- Duty Credit Scrip under RoSCTL Scheme shall be issued without insisting on realization of export proceeds. However, the duty credit allowed under the Scheme, shall be subject to realisation of sale proceeds within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), failing which such duty credit shall be deemed to be ineligible;

9.3 OBJECTIVE OF THE RoSCTL SCHEME

The objective of RoSCTL Scheme is to provide for rebate of State and Central Taxes and Levies in addition to the Duty Drawback Scheme, through the Scheme for RoSCTL on export of apparel/ garments (i.e. goods falling under Chapters 61 & 62 of the Schedule of All Industry Rates(AIR) of Drawback) and Made-ups (goods falling under Chapter 63 of the Schedule of All Industry Rates (AIR) of drawback excluding tariff items 6308, 6309, 6310 and goods in tariff items 9404 that are excluded from drawback tariff item 6304), in accordance with the recognized international economic principle of zero rating of export products at the rates notified vide Notification No 14/26/2016-IT (Vol.II) dated 08.03.2019 with value caps.

The Rebate of State Taxes and Levies shall be understood to comprise VAT on fuel used in transportation, captive power, farm sector, mandi tax, duty of electricity, stamp duty on export documents, embedded SGST paid on inputs such as pesticides, fertilizers etc. used in production of raw cotton, purchases from unregistered dealers, coal used in production of electricity and inputs for transport sector.

The Rebate of Central Taxes and Levies shall be understood to comprise central excise duty on fuel used in transportation, embedded CGST paid on inputs such as pesticides, fertilizer etc. used in production of raw cotton, purchases from unregistered dealers, inputs for transport sector and embedded CGST and Compensation Cess on coal used in production of electricity

9.4 NATURE OF REBATE UNDER RoSCTL SCHEME

The rebate under the Scheme shall be in the form of **duty credit scrips**. The scrips shall be issued electronically on Customs system. The duty credit scrips shall be used for payment of Basic Customs Duty on import of goods. These scrips shall be freely transferable. The manner of utilization of scrip for payment of basic customs duty and other modalities, including conditions relating thereto, consistent with the Scheme, has been notified by the Department of Revenue under Notification No. 77/2021- Customs (N.T.) dated 24.09.2021. Detailed ICEGATE Advisory No. 06/2021 dated 01.10.2021 and ICES Advisory No. 23/2021 dated 30.09.2021 have also been issued by the Directorate General of Systems and Data Management, outlining the mechanism of enabling RoSCTL claims in the shipping Bills, Processing of claims, Scroll Generation, creation of an e-scrip account, generation of duty credit scrips, transfer of scrips and utilization of scrips.

Duty Credit Scrip (DCS) is an incentive scheme which is an export promotion benefit offered by the Government of India under the Foreign Trade Policy (FTP) 2015. Under the FTP 2015-20, MEIS/SEIS/RoDTEP Schemes intends to incentivise exports of goods manufactured in India or produced in India or exported from India. The duty credit scrips can be utilised to pay customs duties on import of inputs or goods, safeguard duty, anti-dumping duty and any other customs duty under FTP 2015-20. It cannot be utilised for payment of GST. Scrips can be freely traded and transferable i.e., Exporters who are able to use the same for their own consumption use the same and exporters who are not able to use for their own consumption, can sell the same to another person.

10. We have gone through the facts of the case, the entire records, and submissions, written as well as oral, made by the Appellant. In the instant case, the moot point is, whether Rebate of State and Central Levies and Taxes (RoSCTL) is duty credit scrips or otherwise.

11. To decide this, first, we intend to understand the meaning of Duty Credit Scrips, mentioned in the Exemption Notification No. 02/2017-C.T. (Rate) dated 28.06.2017 as amended by the Notification No. 35/2017-C.T. (Rate) dated 13.10.2017 vide which the entry, bearing heading 4907, and having the description as Duty Credit Scrips was inserted in the said exemption notification. It is observed that the definition or meaning of the Duty Credit Scrips is not provided under the GST law. Therefore, we will resort to the Foreign Trade Policy (FTP) 2015- 20 formulated by the DGFT, from where this term 'Duty Credit Scrips' has emerged and conceptualized.

The relevant portion of Notification No. 02/2017-C.T. (Rate) dated 28.06.2017 is reproduced as under:

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

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No. 35/2017-Central Tax (Rate)

New Delhi, the 13th October, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 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.2/2017-Central Tax (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. 674(E), dated the 28th June, 2017, namely:-

In the said notification,-

(B) in the Schedule,-

(i) after S. No. 122 and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

"122A	4907	Duty Credit Scrips";
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12. As per the para 3.02 of the chapter 3 of the FTP, Duty Credit Scrips shall be granted as rewards under MEIS and SEIS. The Duty Credit Scrips and goods imported / domestically procured against them shall be freely transferable. The Duty Credit Scrips can be used for: (i) Payment of Basic Customs Duty and Additional Customs Duty specified under sections 3 (1), 3 (3) and 3 (5) of the Customs Tariff Act, 1975 for import of inputs or goods, including capital goods, as per DOR Notification, except certain specified items. From this, it is clear that the duty credit scrips are the instruments to award incentives to the exporters with the objective of the export promotion by allowing them to set off the basic customs duty against it. It is also to be noted that the duty credit scrips are not allowed to set off the IGST/CGST/SGST liability.

13. Now, we intend to comprehend the meaning of RoSCTL. It is observed that the meaning of the RoSCTL is also not provided in the GST Law. Hence, we resort to the same FTP, which has dealt with this term, RoSCTL. RoSCTL is mentioned at point no.(c) of para 4.01 of the Chapter 4 of the FTP, which is as "Scheme for Rebate on State and Central Taxes and Levies (RoSCTL), as notified by the Ministry of Textiles on 07.03.2019, and implemented by the DGFT." Except this nothing is mentioned in FTP.

13.1 The manner of issue of duty credit for goods exported under the Scheme for Rebate of State and Central Taxes and Levies (hereinafter referred to as the "Scheme"), subject to such conditions and restrictions as specified herein, in accordance with Government of India, Ministry of Textiles' Notification No. 12015/11/2020-TTP dated the 13th August, 2021 has been discussed in Notification No. 77/2021-Customs (N.T.) dated 24th September, 2021.

13.2 Vide Notification No. 14/26/2016-IT(VOL.II) dated 07.03.2019 of the Ministry of Textiles, the Government of India has introduced a new Scheme namely "Scheme for Rebate of State and Central Taxes and Levies [hereinafter referred to as "RoSCTL"] on Export of Garments and Made-ups.

- This Scheme has been introduced as a replacement of previous Rebate of State Levies (RoSL) Scheme which provided only rebates of state taxes. Vide aforesaid notification dated 07.03.2019, the RoSCTL Scheme were made effective from the date of Notification i.e. w.e.f. 07.03.2019 with an expiry date of 31.03.2020 which has now been extended up to 31.03.2024 vide para 2 of notification issued by Ministry of Textiles dated 13th August 2021.

- Prior to introduction of the RoSCTL scheme, the Apparel and made-ups sectors were supported under the Scheme for Rebate of State Levies (RoSL) for apparel, notified vide notification no. 12020/03/2016-IT dated 12.08.2016 and for made-ups, notified vide Notification No. 12015/47/2016-IT dated 03.01.2017. However, certain State as well as Central taxes continued to be present in the cost of exports. Accordingly, in pursuance of the decision of the Government of India to rebate all embedded State and Central Taxes and Levies on garments and made-ups to enhance competitiveness of these sectors, the RoSCTL Scheme was notified by the Ministry of Textiles and the existing RoSL Scheme was discontinued w.e.f. from 07.03.2019.

In the above context, Para 3 of notification issued by Ministry of Textiles dated 13th August 2021 is reproduced as under:

The Scheme shall be implemented by Department of Revenue with end to end digitization for issuance of transferable Duty Credit Scrip, which will be maintained in an electronic ledger in the Customs system. Duty Credit Scrip under RoSCTL Scheme shall be issued without insisting on realization of export proceeds. Revised guidelines for continuation and implementation of the RoSCTL scheme is Annexed herewith.

13.3 The nature of Rebate mentioned at Para 4 of Annexure issued with notification issued by Ministry of Textiles dated 13th August 2021 says that:-

.....

4.1. The rebate under the Scheme shall be in the form of duty credit scrips. The scrips shall be issued electronically on Customs system. The duty credit scrips shall be used for payment of Basic Customs Duty on import of goods. These scrips shall be freely transferable. The relevant notification, as regard the manner of utilization of scrip for payment of basic customs duty and other modalities, including conditions relating thereto, consistent with the Scheme, shall be issued by the Department of Revenue.

6. CLAIM FOR REBATE

6.1 An exporter opting for this scheme shall make claim for rebate on exports at item-level, in accordance with the guidelines as may be issued by the Department of Revenue, for operationalising the scheme on Customs system.

6.2 Electronic duty credit ledger will be created by the Customs Authority and the exporter may generate electronic Duty Credit Scrip for value, lying in his/her ledger.

7. MECHANISM OF REBATE

7.1. The Scheme shall be implemented by Department of Revenue (DoR) with end to end digitization for issuance of transferable Duty Credit Scrip, which will be maintained in an electronic duty credit ledger in the Customs system.

7.2. Duty Credit Scrip under RoSCTL Scheme shall be issued without insisting on realization of export proceeds. However, adequate safeguard mechanism shall be put in place for effective monitoring of realization of export proceeds.

7.4. For the purpose of audit and verification, the exporter would be required to keep records to substantiate their claims made under the Scheme. Central Board of Indirect Taxes and Customs (CBIC) would put a monitoring and audit mechanism, with an Information Technology based Risk Management System (RMS), in place.

9. Duration of the Scheme RoSCTL Scheme for apparel/garments and made-ups shall be continued w.e.f 01st January 2021 till 31.03.2024.

14 Question No. 22 on Page No. 472 issued by CBIC GOODS AND SERVICES TAX (GST) 3rd Edition: dated 15th December, 2018 is as under:

Q 22. What is the rate of duty on sale of MEIS/SEIS scrips?

Ans. The MEIS/SEIS scrips are classifiable under HSN code 4907 and the sale of such scrips is exempted vide S. No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, as amended vide Notification No. 35/2017- Central Tax (Rate) dated 13.10.2017.

15. Para 3 of Circular No. 10/2019-Customs dated 12th March, 2019 issued vide F.No.605/7/2019-DBK is as under:

It is to point out that under the RoSCTL, the benefit to exporters shall be given by DGFT in form of Merchandise Exports from India Scheme (MEIS) type duty credit scrips. Detailed procedure for claiming benefit under the RoSCTL, issuance of scrips and their usage is being worked out. Till finalisation of such details, in the transition period, it has been decided that claims filed under the existing scheme codes for the erstwhile RoSL scheme will be treated as claims filed under RoSCTL scheme.

16. Further, Para 6 and 7 of Circular No. 46/20/2018-GST issued vide F. No. 354/149/2017 –TRU Government of India Ministry of Finance Department of Revenue Tax Research Unit Dated the 6 th June, 2018 -

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6. As such, various certificates like RECs, PSLCs etc are classified under heading 4907 and will accordingly attract GST @ 12 %, though duty paying scrips classifiable under the same heading will attract Nil GST {under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, as amended vide Notification No. 35/2017-Central Tax (Rate) dated 13.10.2017}.

7. Accordingly, in modification of S.No. 3 of Circular No. 34/8/2018- GST dated 01.03.2018, it is hereby clarified that Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs) and other similar documents are classifiable under heading 4907 and attract 12% GST. The duty credit scrips, however, attract Nil GST under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017.

17. As such the question raised by the applicant whether Duty Credit Scrips issued under RoSCTL scheme is taxable or exempt under GST schedule I, Sl. No.-122A HSN code 4907. In view of above facts and discussions we are of the opinion that Duty Credit Scrips issued

under RoSCTL Scheme is not taxable falling under HSN code 4907 & inserted vide Sl. No.-122A under Notification No.35/2017-Central Tax (Rate) dated 13.10.2017. Regarding, whether it is applicable to all duty credit scrips or not? It appears that it is applicable to all the duty credit scrips. It is pertinent to mention that only specific entry has been exempted i.e. Duty Credit Scrips.

18. In view of the above discussions, we pass an order as follows:

ORDER

“1. Whether Duty Credit Scrips issued under RoSCTL scheme issued by Directorate General of Foreign Trade is taxable or exempt under GST schedule I, Sl. No.-122A HSN code 4907?

Answer- Duty Credit Scrips issued under RoSCTL are not taxable as per Entry No. 122 A inserted by Notification No. 35/2017-C.T. (Rate) dated 13.10.2017 falling under HSN 4907.

2. Whether Notification no. 35/2017-Central Tax (Rate) dated 13th October 2017 is applicable to all duty credit scrips or not?”

Answer- Yes, excluding ineligible Duty Credit Scrips.

19. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Vivek Arya)

Member of Authority for Advance
Ruling


(Rajendra Kumar)

Member of Authority for Advance
Ruling

To,

M/s BVN TRADERS
7/17, Siddarth Villa, Parwati Bangla Road,
Tilak Nagar, Kanpur,
Uttar Pradesh-208002

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

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 & C. Ex, 117/7, Model Town, Sarvodaya Nagar, Kanpur-208005.
4. The Deputy Commissioner, CGST & Central Excise, Division-III, 117/7, Model Town, Sarvodaya Nagar, Kanpur-208005.
5. Through the Additional Commissioner, G.1, Kanpur Zone-II, Kanpur, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khnad, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order