

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
14 Beliaghata Road, Kolkata - 700015

Name of the applicant	Joint Plant Committee
Address	52/1A, Ballygunge Circular Road, Ispat Niketan, Kolkata - 700019
GSTIN	Unregistered
¹ Case Number / ARN	02 of 2018
² Date of application	17 th January, 2018
Order No & Date	01/WBAAR/ 2017-18
Applicant's representative heard	Sri Pritam Choudhury, CFA

1. The Applicant is a non-profit organisation set up by the Central Government under Clause 17 of the Iron & Steel (Control) Order vide SO 1567 dated 07/04/1971. The Government of India has since modified the composition and functions of the Applicant from time to time. Notification No. 4(5)/03-DI dated 18/08/2008 of the Ministry of Steel re-defines role and composition of the Applicant, which is further modified vide Notification No. 4(17)/2016 - SDI dated 13/04/2017. Apart from six members from the Iron & Steel industry, representing both the Public and the Private sectors, and one each, from the Railway Board, Export Promotion Council and Indian Statistical Institute, the Committee is chaired by a Joint Secretary, Ministry of Steel, Government of India.
2. The Applicant declares that it has not been registered under any of the repealed Acts and wants a ruling on whether it is required to be registered under the CGST / WBGST Act, 2017 (hereinafter referred to as "the GST Act"). Advance ruling can be sought on this matter under section 97(2) of the GST Act. The Applicant also declares that the question raised in the application is not pending or decided in any proceedings under any provisions of the GST Act. The Application is, therefore, admitted.
3. The functions of the Applicant, as specified in the above notifications of the Ministry of Steel, Government of India, include management and operation of the Steel Development Fund and other funds accumulated under the Iron & Steel (Control) Order, 1956, study and analysis of and maintenance of a comprehensive database on market situation in the Iron & Steel Sector including fluctuation in market price, production, availability and movement of material etc.
4. It appears from the statement of accounts for the year ending on 31/03/2017, submitted along with the Application, that the main source of the Applicant's income is interest

accrued on the deposits and on the loans provided from the Steel Development Fund. A secondary source of income is the consideration received from sale of journals and periodicals and from renting accommodation in its guest houses. The aggregate turnover from these sources well exceeds the threshold of twenty lakh rupees and makes it liable for registration under Section 22 (1) of the GST Act, provided it does not make exclusively supply of goods or services that are not liable to tax or wholly exempt from tax under the GST Act.

5. The Applicant's supplies of journals and periodicals are wholly exempt under serial no. 120 of Notification No. 2/2017 - Central Tax (Rate) dated 28/06/2017 (1126 - FT dated 28/06/2017 under the WBGST Act, 2017; hereinafter referred to as "the State Tax") (Tariff head: 4907).

6. The Applicant's case is that its supplies of services are not taxable either. In annexure - I to the Application the Applicant states that its income is exempt under section 10(23C) (IV) of the Income Tax Act, 1961 (hereinafter referred to as "the IT Act"). It argues that the nature and type of charitable institutions and/or organizations registered under section 12AA of the IT Act and the charitable institutions and/or organizations registered under section 10(23C)(iv) of the IT Act are same and identical, and, therefore, all its supplies of services should come under serial no. 1 of the Notification No. 12/2017 - Central Tax (Rate) dated 28/06/2017(1136 - FT dated 28/06/2017 under the State Tax), as amended vide Notification No. 32/2017 - Central Tax (Rate) dated 13/10/2017 (1796 - FT dated 13/10/2017 under the State Tax). The above-mentioned notifications under the GST Act will hereinafter be referred to collectively as "Exemption Notifications for Services". Exemption under serial no. 1 of the Exemption Notifications for Services is available for charitable activities within the meaning of definition clause (r) of the above notifications. It means activities relating to public health of specific categories, advancement of religion, spirituality or yoga, advancement of educational programmes or skill development relating to specific categories and preservation of environment, including watershed, forests and wildlife. *None of the applicant's services are eligible under this clause.* Serial no. 1 of the Exemption Notifications for Services is, therefore, not applicable.

7. Moreover, it is stated to be charging room rent below Rs. 1000/- per day per unit for accommodation in its guest houses, which is an exempt supply under serial no. 14 of the Exemption Notifications for Services.
8. The Applicant declares it makes no other supplies of goods or services.
9. However, as already seen, the main source of the Applicant's income is the interest consideration received by way of interest on services like extending deposits, loans or advances. This service, also, is wholly exempt under Serial no. 27 of the Exemption Notifications for Services (Tariff head: 9971).
10. A question, however, arises whether the applicant will be liable for registration under any clause of Section 24 of the GST Act even if it is not making any taxable supply. Section 24 of the GST Act requires a person to be registered under certain circumstances even if his aggregate turnover does not exceed the threshold specified under Section 22(1) of the GST Act. It will be apparent from a plain reading of Section 24 that the question is relevant in the context of the Applicant only with respect to Section 24(iii) of the GST Act when the person is required to pay tax under the Reverse Charge.
11. Reverse charge is defined under section 2(98) of the GST Act as *"liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act."*

Section 24 is not subject to the provisions of Section 23 of the GST Act. If a person, therefore, is not liable to be registered for making exclusively exempt supplies but is liable to pay tax under Reverse Charges under Section 9(3) of the GST Act or 5(3) of the IGST Act, he shall be required to get himself registered under the GST Act, irrespective of the quantum of the aggregate turnover.

12. Based on information furnished along with the Application and the material presented at the time of Personal Hearing, it is, therefore, held that the Applicant is engaged exclusively in supplying goods and services that are wholly exempt from tax, and, therefore, not liable to be registered in accordance with the provisions under section 23(1) of the GST Act, subject to the condition that the Applicant is not otherwise liable to pay tax under the Reverse Charge mechanism under Section 9(3) of the GST Act or 5(3) of the IGST Act.

13. As the applicant is unregistered and not liable to be registered, the provisions of Reverse Charge under section 9(4) of the GST Act or 5(4) of the IGST Act will not apply.

In view of the foregoing we rule as under

RULING

The Applicant is not required to be registered under the GST Act if he is not otherwise liable to pay tax under reverse charge under section 9(3) of the GST Act.

This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the GST Act.

Sd-

(VISHWANATH)
Member

West Bengal Authority for Advance Ruling

Sd-

(PARTHA SARATHI DEY)
Member

West Bengal Authority for Advance Ruling

Copy to:

1. Joint Plant Committee, 52/1A, Ballygunge Circular Road, Ispat Niketan, Kolkata - 700019
2. Commissioner, CGST & CX, Kolkata South Commissionerate
3. Commissioner, WBGST, Kolkata
4. Advance Ruling Cell, CGST & CX, Kolkata North Commissionerate (to be treated as Office Copy)
5. Advance Ruling Cell, WBGST, Kolkata (to be treated as Office Copy)