

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

Name of the applicant	Ashok Rubber Industries
Address	106/B Narkeldanga North Road, Kolkata 700011
GSTIN	19AKTPS7539P1ZP
Case Number	37 of 2018
Date of application	November 26, 2018
ARN	AD1911180006639
Order No. & date	26/WBAAR/2018-19 dated 21.12.2018
Applicant's representative heard	Shri Nitin Shah, Authorized Representative

1. The Applicant, stated to be a manufacturer of rice polisher made of flexible and elastic rubber, seeks a ruling on classification of the goods. Advance Ruling is admissible under section 97(2) (a) of the CGST/WBGST Acts, 2017 (hereinafter referred to, collectively, as "the GST Act").

The Applicant submits that the question raised in the Application has neither been decided by nor is pending before any authority under any provisions of the GST Act. The concerned officer raises no objection to the admission of the Application.
2. However, this Authority received a written communication dated 06/12/2018 from the Deputy Commissioner (Anti-evasion), Kolkata North CGST & CX Commissionerate, informing that proceedings under section 71 of the GST Act had been initiated against the Applicant.

On December 17, 2018, at the time of hearing under section 98(2) of the GST Act, the Applicant insisted that the Application should be admitted, as no show cause notice had yet been issued or received in connection with the above investigation proceedings.
3. 1st proviso to section 98(2) prohibits this Authority from admitting any application where the question raised is already pending or decided in any proceedings in the case of the applicant under any provisions of the GST Act. It does not distinguish between stages or nature of the proceedings. Any action lawfully taken under any provisions of the GST Act is, therefore, to be construed as proceedings under the Act.

It appears from records that the Application was filed online on 22/11/2018, whereas, as the above central authority submits, the proceedings under section 71 had been initiated on 31/07/2018. The Applicant did not dispute that officials from the concerned authority had visited his places in connection with the investigation, and its subject matter was the same question on which he was seeking a ruling from this Authority.

It is amply clear from the above discussion that proceedings under the GST Act were pending against the Applicant on the date of hearing under section 98(2), concerning the same question on which he was seeking advance ruling. This Authority cannot, therefore, admit the Application.

4. Copies of this order may be sent to the Applicant and the concerned officer.

(SYDNEY D'SILVA)

Member

West Bengal Authority for Advance Ruling

(PARTHASARATHI DEY)

Member

West Bengal Authority for Advance Ruling