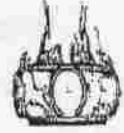




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AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax

D NO 5-56, Block-B, R.K. Spring Valley Apartments,
Edupugallu, Vijayawada-521151

Present:

Sri. D. Ramesh, Additional Commissioner of State Tax.....Member (State Tax)

Sri. S. Narasimha Reddy, Joint Commissioner of Central Tax.....Member (Central tax)

AAR NO.30 /AP/GST/2018 **Dated:28.12.2018**

| | |
|---|---|
| 1. Name and address of the applicant | M/s Divisional Forest Officer, Logging Division, |
| 2. GSTIN | 37AAAGD0764M1ZA |
| 3. Date of filing of Form GST ARA-01 | 07.09.2018 |
| 4. Date of Personal Hearing | 10.12.2018 |
| 5. Represented by | R.Kondal Rao, Divisional Forest Officer, Logging Division, Chintur |
| 6. Jurisdictional Authority - State | Assistant Commissioner(ST) Chittoor-II Circle, Chittoor Division |
| 7. Clause(s) of Section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised | b) Applicability of the notification issued under the provisions of this Act. e) Determination of the liability to pay tax on any goods or services or both; |

Order

(under sub-section (4) of Section 98 of Central Goods And Service Tax Act, 2017 and under sub- section (4) of Section 98 of Andhra Pradesh Goods And Services Tax Act, 2017)



1. The present application has been filed U/s 97 of the Central Goods & Services Tax Act, 2017 and Andhra Pradesh Goods & Services Tax Act, 2017 (hereinafter referred to as CGST Act and APGST Act respectively) by M/s Divisional Forest Officer, Logging Division, Chintur (hereinafter referred to as applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act or APGST Act would be mentioned as being under the GST Act.

3. Brief Facts of the case:

M/s Divisional Forest Officer, Logging Division, Chintur (hereinafter referred to as the Applicant) is engaged in the activities of extraction / cutting of timber & bamboo from natural forest, its transportation to the Government depots, and their maintenance works like grading / classification of timber & bamboo and the sale of the same at Government depots. The applicant mentioned that they were collecting 18% GST from bidders and depositing the same in GST Account 9% SGST + 9% CGST on the sale of timber as per the HSN Code 4403, while collecting 5% GST from the bidders (2.5% SGST + 2.5% CGST) on the sale of bamboo as per HSN Code 1401.

The applicant further submitted that, the works of extraction / cutting of timber & bamboo from natural forest, transportation of the same to the government depots, maintenance of government depots like grading / classification of timber & bamboo at Government depots were being carried out by the open tender system / piece work contract method / combination method / Departmental method / lumpsum contract method. Subsequently the works were entrusted to the lowest bidder of the registered contractors in the Division, who in turn engage local tribal laborers to carry out the activities.

The applicant had filed an application in form GST ARA-01, Dt:07.09.2018, by paying required amount of fee in Payment reference No.IP3709190000005 for seeking Advance Ruling on the following issues, as discussed below:



4. QUESTIONS RAISED BEFORE THE AUTHORITY:

The applicant requested a clarification about the applicability of GST for the following activities:

1. **Extraction of timber / bamboo from Natural Forest :** The Forest Department entrusts this work, which is 100% labour oriented, to the lowest bidder of the registered contractors in the open tender system / nomination / piece work contract and the lowest bidder engages the local tribal labourers for cutting / extraction of timber & bamboo and the bills as per the FSR (Rates Fixed in the Forest Schedule of Rates) rates paid to the contractor, which in turn are paid as wages to the local tribal labourers.

The question is whether GST is applicable for the above works or not. If applicable what percentage and under what item / HSN Code of GST Act.

2. **Transportation of Timber / bamboo from Natural Forest to the Government depots:** This work which is partly labour oriented (for loading and unloading of timber & bamboo) and partly transportation of timber & bamboo on road using lorry / truck, is entrusted to the lowest bidder of the registered contractors in the open tender system / nomination / piece work contract. The bills as per FSR rates will be paid to the contractor, which in turn will be paid to the local tribal labourers and the lorry owners by the contractor.

The question is whether GST is applicable for the above works or not. If applicable what percentage and under what item / HSN Code of GST Act.

3. **Maintenance of Government depots like classification / grading of timber & bamboo and wages to mastris for supervision:** This work which is 100% labour oriented is entrusted to the lowest bidder in the open tender system / nomination / piece work contract. The bills as per FSR rates will be paid to the contractor, which in turn will be paid to the local tribal labourers.

The question is whether GST is applicable for the above works or not. If applicable what percentage and under what item / HSN Code of GST Act.



On Verification of basic information of the applicant, it is observed that the applicant falls under state jurisdiction, i.e. Chittoor-II Circle, Chittoor Division. Accordingly, the application has been forwarded to the Jurisdictional Officer with a copy marked to the Central Tax authorities to offer their remarks as per the Sec. 98(1) of CGST /APGST Act 2017. No remarks are received from the respective Jurisdictional authorities concerned so far.

5. RECORD OF PERSONAL HEARING:

Sri R.Kondal Rao, DFO, Logging Division, Chintur, the Authorized Representative, appeared for personal hearing on 10.12.2018 and he reiterated the facts already submitted in the application.

6. DISCUSSION AND FINDINGS:

The applicant was heard in person and his plea was examined in detail. We find that the Advance Ruling sought by the applicant is on the applicability of the notification issued under the provisions of this Act and the determination of the liability to pay tax on goods or services or both. After examining the kind of activities and services the applicant is engaged in, it is made clear that the applicant do not make any of the supplies in question, but is in fact the recipient of the various supplies made to him by the contractors as stated in his application. Thus the questions raised are on the liability to pay tax on the services supplied to them and not on the supplies made by them.

LEGAL PROVISIONS:

Section 95(a) of CGST and APGST Act defines 'advance ruling' as

(a) " 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 evident that an applicant can seek an advance ruling in relation to supply of goods or services or both undertaken or proposed to be undertaken by the applicant. Further, as per Section 103 (1) of the APGST Act such an Advance Ruling is binding only on the applicant and on the Officer Concerned or the jurisdictional Officer in respect of the applicant.



In the present case the applicant is recipient of the services and not supplier of such services. Accordingly the application is not liable for admission and therefore rejected without going in to the merits of the case

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

The application for Advance Ruling of M/s Divisional Forest Officer, Logging Division, Chintur is rejected under sub-section 2 of Section 98 of the CGST Act, 2017 and the APGST Act, 2017.

Sd/-D. Ramesh
Member (State Tax)

Sd/-S.Narasimha Reddy
Member (Central tax)

//t.c.f.b.o//

Assistant Commissioner(ST)
Assistant Commissioner (State Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.

To

1. M/s Divisional Forest Officer, Logging Division, Chintur

Copy to

2. Assistant Commissioner(ST), Chittoor-II Circle, Chittoor
3. Stock file

Copy submitted to

4. The Chief Commissioner of State Tax, A.P., Vijayawada
5. The Chief Commissioner (GST), Visakhapatnam Zone

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act 2017, with in a period of 30 days from the date of service of this order.

