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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...Member (State Tax)
Sri.S.Narasimha Reddy, Additional Commissioner ...Member (Central tax)

AAR No. 24/AP/GST/2019 dated: 09 .07.2019

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| 1 | Name and address of the applicant | M/s. Mallelli Venkateswara Rao, D.No.2-118, S.T. Colony, Chintur (Post & Mandal), East Godavari District |
| 2 | GSTIN | 37BCTPM9590D2ZU |
| 3 | Date of filing of Form GST ARA-01 | 11.03.2019 |
| 4 | Date of Personal Hearing | 03.04.2019 |
| 5 | Represented by | Mallelli Venkateswara Rao |
| 6 | Jurisdictional Authority – State | The Assistant Commissioner Aryapuram Circle, Kakinada Division, East Godavari District. |
| 7 | Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised | a) Classification of goods and/ or services or both b) applicability of a notification issued under the provisions of this Act; and |

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 AP Goods & Services Tax Act, 2017 (hereinafter referred to as CGST Act and APGST Act respectively) by M/s Mallelli Venkateswara Rao, (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 or AP GST Act would be mentioned as being under the GST Act.

1. Brief Facts of the case:

M/s Mallelli Venkateswara Rao, (hereinafter referred to as the Applicant) having its office at D.No.2-118, S.T. Colony, Chintur (Post & Mandal), East Godavari District is a registered firm, under GSTIN 37BCTPM9590D2ZU and engaged in the following activities,

- 1.Extraction of Timber/Bamboo in natural Forests,
- 2.Transportaion of Timber / Bamboo from natural Forests to the Government Depots,
- 3.Maintenance of Government. Depots like classification / grading of Timber and Bamboo and wages to mastris for supervision.

The applicant had filed an application in form GST ARA-01, Dt: 11.03.2019, by paying required amount of fee for seeking Advance Ruling.

On Verification of basic information of the applicant, it is observed that the applicant falls under State jurisdiction, Assistant Commissioner, Aryapuram Circle O/o. the Kakinada Division, East Godavari Dist. Accordingly, the application has been forwarded to the State jurisdictional officer, Assistant Commissioner, Aryapuram Circle and a copy marked to the Central Tax authorities to offer their remarks as per the Section 98(1) of CGST /APGST Act 2017. In response the jurisdictional officer concerned stated that there are no pending proceedings relating to the applicant and no proceedings were passed on the issue, for which the advance ruling sought by the applicant.



2. Questions Raised Before the Authority:

1) **Extraction of Timber/ Bamboo in natural Forests:** This work is being carried out by the applicant, and the registered contractors in Forest Department who filed lowest tender in the open tender system/ nomination/ piece work contract. This work is carried out using local tribal laborers only. This total work (i.e. 100%) is labor oriented only. The successful tenderer will have to engage the local tribal laborers in and around the forest areas for cutting/ extraction of timber and bamboo. This work is carried out by the contractor under 100% supervision of the Forest Department Officials. The bills as per the FSR rates will be paid to the Contractor by the Forest Department in turn the contractor will pay the wages to the local tribal laborers who involved in the above Government work. The bills are paid as per the FSR base rates which were prepared basing on the District Collector's minimum wage rate.

Q: whether the 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 Forests to the Govt. Depots:** This work is being carried out by the applicant, who filed lowest tender in the open tender system/ nomination/ piece work contract. This work is carried out using local tribal laborers only for loading and unloading works and using the lorry/ truck. This total work is partly labor oriented (for loading and unloading of timber and bamboo) and partly transportation of timber and bamboo on road from the reserve Forest/ Forest coupe to the Government Timber Depot. The successful tenderer will have to engage the local tribal laborers in and around the forest areas for loading and unloading of timber and bamboo and by using lorry/ truck available at Chintur from Lorry owners association. This work is being carried out by the applicant under 100% supervision of the Forest Department Officials. The bills as per the FSR rates will be paid to the Contractor by the Forest Department and in turn the contractor will pay the wages to the local tribal laborers who involved in the above Government work. The bills are paid as per the FSR base rates which were prepared basing on the District Collector's minimum wage rate.

Q: whether the 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 Govt. Depots like classification/ grading of timber and bamboo and wages to Mastris for supervision: This work is being carried out by the applicant who filed lowest tender in the open tender system/ nomination/ piece work contract. This work is carried out using local tribal laborers only. This total work (i.e. 100%) is labor oriented only. The successful tenderer will have to engage the local tribal laborers in and around the forest areas for classification, grading and lotting of timber and bamboo. This work is carried out by the contractor under 100% supervision of the Forest Department Officials. The bills as per the FSR rates will be paid to the Contractor by the Forest Department and in turn the contractor will pay the wages to the local tribal laborers who involved in the above Government work. The bills are paid as per the FSR base rates which were prepared basing on the District Collector's minimum wage rate.

Q: whether the GST is applicable for the above works or not? If applicable what percentage and under what item/ HSN code of GST Act.

3. Applicant's Interpretation of Law and Facts:

The applicant had taken the following stance while interpreting the legal provisions. The applicant submitted that, as per his knowledge and understanding of the GST Act, the type of activities/ services taken up by him, as stated above are not coming under the purview of GST Act and the above activities are not covering under any of the HSN Codes. He states that he had filed the application in order to get clarification and to abide by the Law.

In this regard, the applicant submitted that, prior to the implementation of the GST Act 2017, there was no applicability of the commercial Tax/ VAT on the activities taken up by him. In this connection, he made a reference that during the earlier tenders till June-2017, he had received clarification from the Commercial tax officer, Kothagudem regarding the APVAT Act, 2005 that VAT is not applicable for the works of extraction/transportation of timber and bamboo/lotting of timber and bamboo (maintenance of Govt. Deposit) as it was not falling under Section 17(g) and section 17(2).

The applicant submitted that as the GST Act 2017 is in force from 1st July 2017, the final bills for the works carried out were pending due to ambiguity on the GST applicability. Therefore he requested to clarify and issue advance ruling about the applicability of the GST to the works being carried out by him in Logging Division, Chintur.



4. Record of Personal Hearing:

The applicant Sri Mallelli Venkateswara Rao appeared in person for Personal Hearing on 03.04.2019 and reiterated the submission that had been already made.

5. Discussion and Findings:

We have gone through the facts of the case as submitted by the applicant and examined the issues like the taxability, classification, and the applicable rate of tax for the transactions made by the applicant. At the time of Personal Hearing the applicant pleaded that all the transactions made by him would fall in the following category.

Entry 24(i) of Notification 11/2017 provides nil rates for the following services.

"Heading 9986

Support services to agriculture, forestry, fishing animal husbandry.

Explanation - "Support services to agriculture, forestry, fishing, animal husbandry" mean-

(i) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of

(a) Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(b) supply of farm labour;

(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(e) loading unloading, packing, storage or warehousing of agricultural produce;



- (f) agricultural extension services
- (g) services by any Agricultural produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

(ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.

(iii) carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel raw material or other similar products or agricultural produce."

The above entry is examined and the version of the applicant that the transactions made by him fall under the above entry is not tenable.

What is a support service in relation to the above had been defined by means of an explanation to the same entry. And the explanation had employed the word 'mean' which is restrictive in nature. Thus what is given in explanation shall only mean as support services and nothing else shall. From the explanation given to the entry, the support services mentioned are only in relation to agriculture and fishery and animal husbandry. None of the services are mentioned in relation to natural forests. Moreover, agricultural produce and natural forest produce are entirely different and involve different processes starting from plantation to harvesting. Hence in the absence of any specific exemption to that effect, one cannot extend the services that are mentioned in relation to agriculture to those of natural forests.

Moreover, it is a settled law that an exemption or a relief provided in an enactment shall only be interpreted in the exact wording employed in the legislature. Nothing can be extrapolated or inferred to extend the scope of an exemption. Therefore, the service in question viz., a) cutting logging b) Transportation c) maintenance of depots of forest department cannot be covered under the said entry 24(i).

The transactions referred to are taxable at the rate of 9% CGST + 9% SGST as per the general entry 35 of the notification no 11/2017 dt:28-06-2017.



RULING

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

The transactions made by the applicant fall under entry 35 of the Heading 9997(SAC Code) of the notification no 11/2017, dt: 28-06-2017 and taxable at the rate of 9% CGST + 9% SGST.

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. Mallelli Venkateswara Rao, D.No.2-118, S.T. Colony, Chintur (Post & Mandal), East Godavari District (**By Registered Post**)

Copy to

1. The Assistant Commissioner, Aryapuram Circle, Kakinada Division, East Godavari District. **By Registered Copy** .
2. Superintendent of Central Tax, Seethanagaram Range, Rajamahendravaram CGST Division, Visakhapatnam. **By Registered Copy**

Copy Submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035

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.

