

PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Kalpana Tiwari
Additional Commissioner
O/o Commissioner, State Tax
Chhattisgarh, Raipur

Shri Rajesh Kumar Singh
Additional Commissioner
O/o Principal Commissioner
CGST & Central Excise, Raipur (C.G)

Sub:- Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 – Regarding GST applicability on Medical Services (Vaccination)

Read:- Application dated 11.09.2019 from Smt. Anju Parakh, C-138, Sector-1, Devendra Nagar, Raipur, Chhattisgarh.

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/06/2019 Nawa Raipur Atal Nagar, Dated .21..../1/2020

The applicant Smt. Anju Parakh, C-138, Sector-1, Devendra Nagar, Raipur, Chhattisgarh, GSTIN 22AESPP0220P1ZB has filed the application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 regarding GST applicability on Medical Services with regard to providing vaccination from clinic. The application filed by the applicant received on 11-09-2019 was incomplete and was also found not to be in the prescribed format GST ARA-01, as specified under section 97(1) of Chhattisgarh State GST Act, 2017. Further, the applicant had deposited only SGST fee of Rs. 5000/- vide CPIN 19092200015055 dated 11-09-2019, and had not deposited Rs. 5000/- for CGST as specified in Circular no. 25/25/2017-GST dated 21.2.2017, issued by the Central board of Excise and Customs, New Delhi. This failure on their part to comply with the aforesaid procedure as stipulated supra, was also made known to the applicant vide letter no. राकआ/अविप्रा/06/2019/10441, नवारायपुर अटलनगर, दिनांक 20.09.2019.



Signature

In order to have a firsthand information on the views of the applicant and in keeping with the established principles of natural justice as also to make aware the applicant of the stipulated provisions of the statute, despite non-compliance of prescribed rules of CGST Act, 2017 the applicant was granted a personal hearing before this authority on 27.12.2019 under Rule 98 (2), which was attended by Shri Rajkumar Parakh, husband and authorized representative of Smt. Anju Parakh, the applicant.

2.1 During the course of personal hearing before this authority, the applicant's representative, Shri Rajkumar Parakh referred to an email dated 13-10-2019, from Support GSTN stating that it has been informed therein, that the option for payment in advance ruling is only available for SGST head, CGST and IGST will remain blocked, as the same is not required and that the details and the communications related to the same is only done through state authority. It was his further contention that on 11-09-2019, GST site allowed only paying for SGST only and CGST & IGST was blocked. He further contended that the system during October 2019 end discontinued system of advance ruling for registered users and that he had received a call from Infosys, saying that now applicant has to go for unregistered portal at present. It was further stated that the amount of Rs. 5,000/- on 11-09-2019 for SGST, already paid was not allowed adjustment thereafter. The representative further contended that his wife being a professional pediatrician is out of the purview of GST as the service of providing vaccination from her clinic comes under the category of health care, thereby exempted from GST liability.

3. Legal provisions:-

(1) Section 97 (1) of CGST Act, 2017 :- This section states that an applicant desirous of obtaining an advance ruling under this chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(2) Rule 104 (1) of the CGST Rules, 2017:-

An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in FORM GST ARA-01 and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.



Thus an applicant who seeks an advance ruling should make an application online in the described FORM GST ARA-01 together with a fee of Rs. 5,000/- stating the questions on which such a ruling is sought. The said fee of Rs. 5,000/- shall be paid by the applicant under the CGST Act and the respective state GST Act utilizing the amount in the electronic cash ledger in the manner specified in section 49.

(3) Rule 107 (A) of the CGST Rules, 2017 (Manual filing and processing):-

Although Rules 104 and 106 specified filing of an application on the common portal, Rule 107 A was introduced to allow manual filing of the same. Accordingly Circular No.25/25/2017-GST Dated 21-12-2017 was issued detailing the procedures for manual filing of an application for advance ruling till such time the advance ruling module is made available on the common portal. The Circular allowing manual filing of applications for advance ruling shall be effective in a state only until an online module is made available on the common portal.

(4) Circular no. 25/25/2017-GST issued by the Central board of Excise and Customs on 21-12-2017:-

Point No.4 of the Circular No. 25/25/2017-GST issued by the Central board of Excise and Customs on 21-12-2017 reads as under- "In order to make the payment of fee for filing an application for advance ruling on the common portal, the applicant has to fill his details using "Generate User Id for advance ruling" under "User Services". After entering the email id and mobile number, a Onetime Password (OTP) shall be sent to the email id. Upon submission of OTP, Systems shall generate a temporary ID and send it to the declared email and mobile number of the applicant. On the basis of this ID, the applicant can make the payment of the fee of Rs. 5,000/- each under the CGST and the respective SGST Act. The applicant is then required to download and take a print of the challan and file the application with the Authority for advance Ruling".

4. It is also worth mentioning here that this failure on the part of the applicant to comply with the aforesaid procedure as stipulated supra, was also made known to the applicant vide letter no. राकआ/अविप्रा/06/2019/10441, नवारायपुर अटलनगर, दिनांक 20.09.2019 and during the personal hearing as well. Needless to mention here that any e-mail communication can in no way override the provisions of the Act, the rules made there and the provisions and procedures stipulated under the statute.

5. As the applicant failed to comply with the aforesaid legal procedures despite being made known about the same as above vide letter dated 20.09.2019 and thereafter during the course of personal hearing held on 27.12.2019, this authority is of the considered view that their application at this stage cannot be entertained owing to the said failure to comply with the stipulated provisions of Act and Rules under State GST Act and/or Central GST Act, as discussed supra. The applicant has the option for seeking refund with the authorities concerned of the amount paid by them and to apply afresh seeking advance ruling, in compliance to the provisions as stipulated under the Act and the Rules made there under.



Prasan

Place: - Raipur

Date:- 21/01/2020

Seal:-



sd -

Kalpana Tiwari
(Member)

sd -

Rajesh Kumar Singh
(Member)

TRUE COPY

Kalpana

MEMBER

ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

TRUE COPY

Rajesh

MEMBER

ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

Copy to:-

1. Applicant,
2. The Commissioner, (CGGST)
3. The Principal Commissioner, (CGST)
4. The concerned officer, CGGST, Raipur.