

RAJASTHAN AUTHORITY FOR ADVANCE RULING
ADVANCE RULING NO. RAJ/AAR/2022-23/04, Dated 19th May, 2022

GOODS AND SERVICES TAX

KAR BHAWAN, AMBEDKAR CIRCLE, NEAR

RAJASTHAN HIGH COURT

JAIPUR - 302005 (RAJASTHAN)

Vikas Kumar Jeph Additional Commissioner	:	Member (Central Tax)
M. S. Kavia Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Mody Education Foundation, NH-11, Laxmangarh, Distt. Sikar (Rajasthan) - 3323 11
GSTIN of the applicant	:	08AAHCG0218N1ZI
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	(a) Classification of any Goods or Service or Both (b) Applicability of a Notification issued under the Provisions of this Act; (c) Determination of the time and value of supply of goods or services or both; (e) Determination of the Liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	12.04.2022 & 28.04.2022
Present for the applicant	:	Ritul Patwa, C.A. (Authorised Representatives)
Date Of Ruling	:	19.05.2022

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

At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s Crown Craft India Private Ltd., F-668 to 670,9F2, V.K.I. Area, Jaipur-302013, Rajasthan (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (d) &. (e) given as under:

(d) admissibility of input tax credit of tax paid or deemed to have been paid; (e) determination of the liability to pay tax on any goods or services or both.

A. SUBMISSION OF THE APPLICANT: (in brief)

> M/s. Crown Craft india Private Limited., F-668,670 9F2, VKI Area, Jaipur (herein after also called as the "applicant") (Registration No. 08AAACC6867C1ZP) are engaged in the manufacture of (i) Thermocol, (ii) PET Bottles, (iii) Tableware, Kitchenware & Tiffin, (iv) Toilet ware and Plastic casserole, (v) Steel ware Household, (vi) Plastic Chair and (vii) Flask with inner steel falling under chapter heading Nos. 392190, 392330, 392410, 392490, 732393, 940370 & 961700 respectively. They are availing Input Tax credit on Capital Goods, Inputs as well as Input services used in or in relation to manufacture of our final product as per the provisions of GST Act. 2017 and rules made thereunder.

> They are having their manufacturing unit situated at F-668 to 670, 9F2, VK.L Area, Jaipur, Rajasthan 302013 (hereinafter also called as the first unit). Presently they are carrying out all functions viz. receipt of inputs, capital goods, input services, manufacture of final goods as well as dispatch of final goods from their registered premises.

> Further they are planning to expand operation of their company by increasing capacity to manufacture the finished goods. Further since the space in present registered premises is limited, therefore, they are planning to establish a new unit within the Jaipur district (within Rajasthan). The new unit would be manufacturing similar goods as they are manufacturing in present registered premises. The new unit would also be used to manufacture semi-finished goods which may be sent to their first unit for finishing and further sale to customers. It is submitted that the following situations would emerge as a result of setting up new unit within the Jaipur District.-

a. The new unit would work under single GST number as is provided under section 25 of the GST Act,2017.

b. Goods would travel between these two units as movement of raw material/ semi-finished/ finished (for further clearance on payment of GST).

c. New Capital goods would be received in the new unit for manufacture of finished goods and ITC of GST paid on such capital goods would be availed by the applicant.

d. Some capital goods may be shifted to the new unit as a mean for optimizing the production of company as a whole.

e. Movement of raw material/semi-finished/ finished goods/capital goods would attract provision relating to issue of E-way bill.

> This new unit which they are planning would be registered with their own PAN number and thus would be registered as additional place of business as per section 25 of GST Act, 2017 and would have single registration number under GST Act,2017.

> The GST Act, 2017 and Rules made thereunder as well as circulars and clarifications issued from time to time shed little light on the procedure to be followed in respect of business premises, especially if they are two factories having same GST Number, regarding the dealing of transactions/movement of goods between the two such units.

Applicant's interpretation:

The applicant's understanding and interpretation of rules and regulation are as under:

1. Since our present and new unit (situated within the Rajasthan state) would have same GSTIN therefore sending goods/ raw material/ capital goods from one unit to other would not comprise supply of goods or services. In such circumstance would we require to pay GST on such movement of goods/raw material/ capital goods?

Interpretation:

We understand that in our case the goods and raw material would move between our one factory to another for the purpose of further working on the semi-finished goods, packing or for consolidation of supply to our ultimate buyer. Since both units would be working under same GSTIN therefore such movements cannot be termed as supply under the provisions of GST Act, 2017. In such circumstances such movement would not fall under "supply of goods" as there is total absence of recipient of the goods other than our self. Therefore, no liability of GST would arise for such movement of goods or capital goods between two units within the state and working under same GSTIN.

2. If we have to issue challan for transfer of goods from one unit to other what value is to be considered for E-way bills if that is to be issued?

interpretation:

As mentioned above and as per our interpretation, such movement of capital goods, raw material or finished goods between our two factories would not attract any GST therefore there will not be any transaction for sale, mortgage, transfer of property involving any kind of value between the two units. Thus, for transfer of the goods between two units we would have to take a notional value of such goods and issue an E-way bill for such transfer (if required depending on value of such transferred goods).

3. In respect of movement of raw material/capital goods/ semi-finished goods for further processing would the provisions of job-work apply or we can send these goods on simple internal challan?

interpretation:

We understand that sending of raw- material, semi-finished goods or capital goods to the other unit or vice versa would attract provisions of section 143 of the C.G.S.T. Act. 2017. For the movement of the goods we would have to follow the procedure as laid down for the movement of goods under Job-work.

We further understand the for clearance of the goods from the second unit we would have to follow the provisions laid down in the Proviso to section 143 (b) which reads as under:

Provided that the principle shall not supply the goods from the place of business of a job worker in accordance with the provisions of the Clause unless the said principle declares the place of business of the job worker as his additional place of business except in a case ,-

- (i) Where the job worker is registered under section 25; or
- (ii) Where the principle is engaged in the supply of such goods as may be notified by the commissioner.

In view of the above, the applicant would have to follow the procedure the job work for the movement of the goods for the movement o raw material, semi-finished, finished, capital goods between the two units.

However, in situations where the goods move between two units which do not fall under the category of Job-work (such as transfer of capital goods and other materials) would we require to follow the job work procedure.

4. In respect of the above situation in question No. 1, would we require to issue E-way bill for such movement of goods from our one unit to other if the value of the goods to be moved is higher than the threshold limit required for issue of E-way bill in normal course.

In view of the answer for the question No. 3 above we understand that the E-way bill would be required to be issued in accordance with the provisions of Job work as well as the provisions of E-way bills.

5. How will would have to deal with the ITC available for each unit? We understand that since the two units would have same GSTIN then in such case we would have to maintain single ITC credit and the same would be used for discharge of our GST liability irrespective of the clearance of goods from either of the factory. Thus, can we use ITC for the goods/raw material/capital goods received in one factory for payment of GST for the clearance made from second unit?

As per section 16 (1) of the C.G.S.T. Act, 2017 the provisions of Input Tax credit are as follows;

(1) Every registered person shall, subject to such condition and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course of furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

From the plain reading of the above provisions it is clear that we would be eligible for ITC credit in respect of goods and services received by us. However, it is also mentioned in the

provisions that the same would be credited to our electronic credit ledger. The situation arising in our case is that since we would be having single GST No. for both the units then as per the section 16(1) there would be only one ledger for the ITC credit. In such circumstances, would we be able to use the credit of our electronic credit ledger to discharge our GST liability for either of the unit or there would be any restriction. In other words, would the applicant be able to use the credit of inputs and capital goods for payment of GST for the goods cleared from other unit. In our understanding since there is only one electronic ledger for the credit therefore, we would be able use this credit for discharging our GST liability from either of the unit as for all practical purposes as we are having one GST No.

6. For purchase of raw material/ capital good do we have to order and mentioned separate factory address?

In our understanding since we are one unit, having two manufacturing plant, and also the fact that we would be having one electronic credit ledger therefore we need not order for the capital goods and raw material as well as other things separately from our vendors. However, for our internal accounting purpose we would be keeping account for the movement as well as consumption of such inputs/capital goods/ other items. For GST purpose such internal account of the goods would not affect.

7. For invoice of clearance of goods does the applicant have to mention both addresses or the address of the concerned unit from which the goods are cleared?

We understand that section 31 of the C.G.S.T. Act, 2017 requires that every registered person is required to issue Invoice for the removal of the goods. Among other details in the invoice viz. description, quantity, rate, value of the goods with corresponding chapter head the other things to be mentioned are name and address of the consignor. However, the basic information of an invoice is the name and address of the consignor. In our case the consignor would be the applicant and, in our situation, we have two addresses from where we are conducting our business. In our understanding the address of the concerned factory would have to be mentioned for the clearances of the goods.

We understand that we would have to maintain two sets of invoices for each unit respectively. Goods sent from one factory would have to be issued or cleared with the respective invoice mentioning the address of the particular unit from where the goods are being cleared.

B. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:-

1. Since our present and new unit (situated within the Rajasthan state) would have same GSTIN therefore sending goods/ raw material/ capital goods from one unit to other would not comprise supply of goods or services. In such circumstance would we require to pay GST on such movement of goods/raw material/ capital goods?

2. If we have to issue challan for transfer of goods from one unit to other what value is to be considered for E-way bills if that is to be issued?

3. In respect of movement of raw material/capital goods/ semi-finished goods for further processing would the provisions of job-work apply or we can send these goods on simple internal challan?

4. In respect of the above situation in question No. 1 , would we require to issue E-way bill for such movement of goods from our one unit to other if the value of the goods to be moved is higher then the threshold limit required for issue of E-way bill in normal course.

5. will; would have to deal with the ITC available for each unit? We understand that since the two units would have same GSTIN then in such case we would have to maintain single ITC credit and the same would be used for discharge of our GST liability irrespective of the clearance of goods from either of the factory. Thus, can we use ITC for the goods/raw material capital goods received in one factory for payment of GST for the clearance made from second unit?

6. For purchase of raw material/ capital good do we have to order and mentioned separate factory address?

7. For invoice of clearance of goods does the applicant have to mention both addresses or the address of the concerned unit from which the goods are cleared?

C. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 12.04.2022. Shri Madhu Sudan Sharma, Authorized Representative appeared for personal hearing. He reiterated the submission already made in written submission. He requested for early disposal of the application.

D. COMMENTS OF THE JURISDICTIONAL OFFICER

The Deputy Commissioner, State Tax, Circle-A, Jaipur vide letter dated 07.04.2022 has offered his comments in the matter. The gist of the same is as under: -

1. Since our present and new unit (situated within the Rajasthan state) would have same GSTIN therefore sending goods/ raw material/ capital goods from one unit to other would not comprise supply of goods or services. In such circumstance would we require to pay GST on such movement of goods/raw material/ capital goods?

Ans.: There is no liability of GST would arise for such movement goods/raw material/ capital goods between two units within the state, working under same GSTIN.

2. If we have to issue challan for transfer of goods from one unit to other what value is to be considered for E-way bills if that is to be issued?

Ans.: The Value of goods to be considered as per books.

3. In respect of movement of raw material/capital goods/ semi-finished goods for further processing would the provisions of job-work apply or we can send these goods on simple internal challan?

Ans.: Job work procedure under section 143 of RGST Act, 32017 would apply.

4. In respect of the above situation in question No. 1. would we require to issue E-way bill for such movement of goods from our one unit to other if the value of the goods to be moved is higher than the threshold limit required for issue of E-way bill in normal course.

Ans.: E way bill is required to be issued as per the rule 138 of the RGST. 2017.

5. How will you have to deal with the ITC available for each unit? We understand that since the two units would have same GSTIN then in such case we would have to maintain single ITC credit and the same would be used for discharge of our GST liability irrespective of the clearance of goods from either of the factory'. Thus, can we use ITC for the goods/raw material/capital goods received in one factory for payment of GST for the clearance made from second unit?

Ans.: Yes, ITC can be used for goods/raw material/capital goods received in one factory for payment of GST for the clearance made from second unit?

6. For purchase of raw material/ capital good do we have to order and mentioned separate factory address?

Ans.: Yes, separate factory address have to be mentioned in purchase invoice.

7. For invoice of clearance of goods does the applicant have to mention both addresses or the address of the concerned unit from which the goods are cleared?

Ans.: The address of the concerned unit from which the goods are cleared have to be mentioned in invoice.

E. FINDINGS, ANALYSIS & CONCLUSION:

1. We have perused the records on file and gone through the facts of the case and the submissions made by the applicant as well as the department. On the basis of submission made, we are of the view that the applicant i.e. M/s. Crown Craft India Private Limited., F-668,670 9F2, VKI Area, Jaipur (GST registration No. 08AAACC6867C1ZP) are engaged in the manufacture of (i) Thermocol, (ii) PET Bottles, (iii) Tableware, Kitchenware & Tiffin, (iv) Toilet ware and Plastic casserole, (v) Steel ware Household, (vi) Plastic Chair and (vii) Flask with inner steel.

2. As per written submission made by the applicant, it is of the view that due to limited space at their present factory, they are planning to establish a new unit within the Jaipur district (within Rajasthan). The new unit would be manufacturing similar goods as they are manufacturing in their present registered premises. The new unit would also be used to manufacture semifinished goods which may be sent to their first unit for finishing and further sale to customers. This new unit which they are planning would be registered with their own PAN number and thus would be registered as additional place of business as per section 25 of GST Act, 2017 and would have single registration number under GST Act, 2017.

3. There are different issues to be discussed in respect of which the applicant has asked questions seeking Advance Ruling on the same. They are as under:

1) Since our present and new unit (situated within the Rajasthan state) would have same GSTIN therefore sending goods/ raw material/ capital goods from one unit to other would not comprise supply of goods or services. In such circumstance would we require to pay GST on such movement of goods/raw material/ capital goods?

2) If we have to issue challan for transfer of goods from one unit of other what value is to be considered for E-way bills if that is to be issued?

3) In respect of movement of raw material/capital goods/semi-finished goods for further processing would the provisions of job-work apply or we can send these goods on simple internal challan?

4) In respect of the above situation in question No. I, would we require to issue F.-way bill for such movement of goods from our one unit to other if the value of the goods to be moved is higher then the threshold limit required for issue of E-way bill in normal course.

5) How will we have to deal with the ITC available for each unit? We understand that since the two units would have same GSTIN then in such case we would have to maintain single ITC credit and the same would be used for discharge of our GST liability irrespective of the clearance of goods from either of the factory. Thus, can we use 11C for the goods/raw material/capital goods received in one factory for payment of GST for the clearance made from second unit?

6) For purchase of raw material/ capital good do we have to order and mention separate factory address?

7) For invoice of clearance of goods does the applicant have to mention both addresses or the address of the concerned unit from which the goods are cleared?

4. We will take up all the above questions for discussion one by one. The first question pertains to registration of new unit (situated within the Rajasthan state) and liveability of GST on movement of goods/raw material/ capital goods from present unit (i.e. F-668,670 9F2, VKI Area, Jaipur) to new unit and vice versa. The relevant legal provisions are as under:

Section 25 of the CGST Act, 2017:

Procedure for registration.-

(1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory' in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business:

[Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.]

Explanation.- Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

(2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:

[Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.]

(3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

In view of above, we are of the view that as per Sub-Section (2) of Section 25 of the CGST Act, 2017, where a person has multiple establishment in a state, in such a case he shall be liable to take single registration in the state by adding establishment as additional place of business. However, a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

GST is a state specific tax i.e. there is no concept of centralized registration under the GST regime. One needs to take registration in every state from wherever he is engaged in making taxable supply of goods or services or both. Where a person has multiple branches in a state, in such a case he shall be liable to take single registration in the state by adding branches as additional place of business. It will be done by showing one of the two place of business as principal place of business and other as additional place of business.

In the present case, the applicant intends to establish a new unit within the Jaipur district (within Rajasthan). The new unit would be manufacturing similar goods as they are manufacturing in their present registered premises. The applicant does not want to take separate registration of this new unit. Thus, as per Sub-Section (2) of Section 25 of the CGST Act, 2017, the applicant does not require to obtain separate registration of their new unit (to be established) and can work with single registration allotted to present unit. As present unit and new unit will have same registration, therefore they are not distinct person as per Sub-Section (4) of Section 25 of the CGST Act, 2017.

As far as supply of goods or services or both between these two establishment of applicant is concerned, we find that movement of goods/raw material/ capital goods from present unit (i.e. F-668,670 9F2, VKI Area, Jaipur) to new unit and vice versa does not constitute 'supply, as

these units are not distinct person to each other due to single registration. In the present case, we are of the view that for a transaction to be a 'supply', the essential criteria to be satisfied in the involvement of consideration, with the only exceptions being the activities mentioned in Schedule I and import of services. Thus, in the present case being unit transfer of raw material, semi-finished, finished, capital goods; there no consideration is involved and the activity is neither specified in Schedule I nor in the nature of import of services, the activity i.e. movement of raw material, semi-finished, finished, capital goods between the two units under same GST registration number shall not be a 'supply' under the provisions of the GST Act, 2017. Moreover, in such circumstances such movement would not fall under "supply of goods" as there is total absence of recipient of the goods other than itself. On the other hand, if the receiving unit or processing unit operates with a different GSTIN, then Central Tax and State Tax are applicable. Therefore, in the present case no liability of GST would arise for such of raw material, semi-finished, finished, capital goods between two units within the state and working under same GSTIN.

5. Now, we are required to discuss the second question of the applicant which is related to consideration of value for E-way bills if that is to be issued for transfer of goods from one unit to other. In this regard, legal relevant provisions are as under:-

E-WAY RULES

The provisions related to 'E-way bill' is described in the Rule 138 of the CGST Rules, 2017. As per sub rule (1) of Rule 138 of the said Rules, every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees,-

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal.

Explanation 2.- For the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Further, the provisions related to exemption from issuance of e-way bill is described in Sub-rule (14) of the Rule 138 of the CGST Rules. 2017, which is reproduced as under: -

- (14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated,-
 - (a) where the goods being transported are specified in Annexure:

- (b) where the goods are being transported by a non-motorised conveyance:
- (c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs:
- (d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the State or Union territory Goods and Services Tax Rules in that particular State or Union territory;
- (e) where the goods, other than de-oiled cake, being transported, are specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part 11, Section 3, Sub-section (i), vide number G S R 674 (E) dated the 28th June, 2017 as amended from time to time:
- (f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel;
- (g) where the supply of goods being transported is treated as no supply under Schedule III of the Act:
- (h) where the goods are being transported- (i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or (ii) under customs supervision or under customs seal:
- (i) where the goods being transported are transit cargo from or to Nepal or Bhutan:
- (j) where the goods being transported are exempt from tax under notification No. 7/2017-Central Tax (Rate), dated 28th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 679(E) dated the 28th June, 2017 as amended from time to time and notification No. 26/2017- Central Tax (Rate), dated the 21st September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1181(E) dated the 21st September, 2017 as amended from time to time;
- (k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee;
- (l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- (m) where empty cargo containers are being transported; and
- (n) where the goods are being transported upto a distance of twenty kilometers from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.

(o) [where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.]

Keeping in view the above legal provisions, we are of the view that applicant is not exempted to generate e-way bill for the movement of capital goods, raw material or finished goods to be made between their two units. Further, as far as value for E-way bills if that is to be issued for transfer of goods from one unit to other is concerned, we find that being not a 'supply', no GST would attract on such movement, therefore there will not be any transaction for sale, mortgage, transfer of property involving any kind of value between the two units. Thus, we find that for transfer of the goods between two units they would have to take a value of such goods as explained in Explanation-2 to Sub-Rule (1) of the Rule 138 of the CGST Rules, 2017 and issue an E-way bill for such transfer (if required depending on value of such transferred goods).

6. Now, we are required to discuss the third question of the applicant under which it is to decide whether movement of raw material/capital goods/ semi-finished goods for further processing would the provisions of jobwork apply or they can send these goods on simple internal challan. In this regard, legal relevant provisions are as under:-

In this regard, we have to first examine whether the above question falls under the ambit of questions as mentioned in Section 97(2) or otherwise.

97. Application for advance ruling ,-

(1) 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.

The question on which the advance ruling is sought under this Act, shall be in respect of,-

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

As per sub section (2) of the section 97 of the CGST Act, 2017, the applicant can seek the advance ruling on the questions as mentioned in the sub section (2) only. As the question No. 3 of the applicant does not fall under the category mentioned in the sub section (2) of the section 97 of the CGST Act, 2017 therefore, no answer is being given.

7. Now, we are required to discuss the fourth question of the applicant under which it is to decide whether applicant would require to issue E-way bill for such movement of goods from our one unit to other if the value of the goods to be moved is higher than the threshold limit required for issue of E-way bill in normal course.

In this regard, we have to first examine whether the above question falls under the ambit of questions as mentioned in Section 97(2) or otherwise.

97. Application for advance ruling -

(1) 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) The question on which the advance ruling is sought under this Act, shall be in respect of,-

(a) classification of any goods or services or both;

(b) applicability of a notification issued under the provisions of this Act;

(c) determination of time and value of supply of goods or services or both;

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or result in a supply of goods or services or both, within the meaning of that term.

As per sub section (2) of the section 97 of the CGST Act, 2017, the applicant can seek the advance ruling on the questions as mentioned in sub section (2) only. As the question No. 4 (Forth) of the applicant does not fall under the category mentioned in the sub section (2) of the section 97 of the CGST Act, 2017 therefore, no answer is being given.

8. Now, we are required to discuss the Fifth question of the applicant under which it is to decide whether applicant can use ITC for the goods/raw material/capital goods received in one factory for payment of GST for the clearance made from second unit?

To examine the situation as discussed in above question, we have to first go through the relevant provisions of Input Tax Credit (ITC). As per section 16 (1) of the C.G.S.T. Act, 2017 the provisions of Input Tax credit are as follows;

(1) Every registered person shall, subject to such condition and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course of furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

From the above provisions, we find that applicant would be eligible for ITC credit in respect of goods and services received by them subject to condition and restrictions of the chapter V Input Tax Credit. However, it is also mentioned in the provisions that ITC would be credited to their electronic credit ledger. The situation arising in the case is that since applicant would be having single GST No. for both the units then as per the section 16(1) there would be only one ledger for the ITC credit.

We are of the view that all eligible Input Tax Credit that is claimed by a registered person in the GST returns (GSTR-2 or GSTR-3B) reflects in Electronic Credit Ledger. Credit in Electronic Credit Ledger can be used only for payment of tax. The electronic credit ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for input tax credit on the common portal and ever)' claim of input tax credit will be credited to this ledger. The amount available in the electronic credit ledger can be used for making any payment towards output tax.

In the circumstances as mentioned in the question, applicant would be able to use the eligible credit of electronic credit ledger to discharge their GST liability for either of the unit. In other words, the applicant would be able to use the eligible credit of inputs and capital goods for payment of GST for the goods cleared from other unit as there is only one electronic ledger for the credit of both the units having same GST number. Hence, applicant would be able to use this credit for discharging their GST liability from either of the units.

9. Now, we are required to discuss the Sixth question of the applicant under which related to factory address in respect of purchase of raw material by these units.

In this regard, we have to first examine whether the above question falls under the ambit of questions as mentioned in Section 97(2) or otherwise.

97. Application for advance ruling ,-

(1) 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) The question on which the advance ruling is sought under this Act, shall be in respect of,-

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

As per sub section (2) of the section 97 of the CGST Act, 2017, the applicant can seek the advance ruling on the questions as mentioned in the sub section (2) only. As the question No. 6 (Sixth) of the applicant does not fall under the category mentioned in the sub section (2) of the section 97 of the CGST Act, 2017 therefore, no answer is being given.

10. Now, we are required to discuss the Seventh question of the applicant which is related to determination of address of units on the invoices.

In this regard, we have to first examine whether the above question falls under the ambit of questions as mentioned in Section 97(2) or otherwise.

97. Application for advance ruling , -

(1) 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) The question on which the advance ruling is sought under this Act, shall be in respect of,-

(a) classification of any goods or services or both;

(b) applicability of a notification issued under the provisions of this Act;

(c) determination of time and value of supply of goods or services or both;

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

As per sub section (2) of the section 97 of the CGST Act, 2017, the applicant can seek the advance ruling on the questions as mentioned in the sub section (2) only. As the question No. 7 (Seventh) of the applicant does not fall under the category mentioned in the sub section (2) of the section 97 of the CGST Act, 2017 therefore, no answer is being given.

11. In view of the extensive deliberations as hereinabove, we rule as follows: -

RULING

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

For reasons as discussed in the body of the order, the questions of the applicant are answered thus:

Question 1: Since our present and new unit (situated within the Rajasthan state) would have same GSTIN therefore sending goods/ raw material/ capital goods from one unit to other would not comprise supply of goods or services. In such circumstance would we require to pay GST on such movement of goods/raw material/ capital goods?

Answer: Being same GSTIN of both the units (present & new unit), there is no occurrence/constitution of 'supply' in respect of movement of raw material, semi-finished, finished, capital goods between these two units within the state. Therefore, no liability of GST would arise for such movement between two units working under same GSTIN.

Question 2: If we have to issue challan for transfer of goods from one unit to other what value is to be considered for E-way bills if that is to be issued?

Answer: For transfer of the goods between two units, they would have to take a value of such goods as explained in Explanation-2 to SubRule (1) of the Rule 138 of the CGST Rules, 2017 and issue an Eway bill for such transfer (if required depending on value of such transferred goods as notified in Notification issued by the Commissioner, SGST).

Question 3: In respect of movement of raw material/capital goods/ semi-finished goods for further processing would the provisions of job-work apply or we can send these goods on simple internal challan?

Answer: As the question of the applicant does not fall under the ambit of sub section (2) of the section 97 of the CGST Act, 2017 therefore, we refrain our-self from giving ruling on the question.

Question 4: In respect of the above situation in question No. 1, would we require to issue E-way bill for such movement of goods from our one unit to other if the value of the goods to be moved is higher than the threshold limit required for issue of E-way bill in normal course.

Answer:- As the question of the applicant does not fall under the ambit of sub section (2) of the section 97 of the CGST Act, 2017 therefore, we refrain our-self from giving ruling on the question.

Question 5: How will we have to deal with the ITC available for each unit? We understand that since the two units would have same GSTIN then in such case we would have to maintain single ITC credit and the same would be used for discharge of our GST liability irrespective of the clearance of goods from either of the factory. Thus, can we use ITC for the goods/raw material/capital goods received in one factory for payment of GST for the clearance made from second unit?

Answer : Since applicant would have single GST No. for both the units (Present & proposed unit) then as per section 16(1) of the CGST Act, 2017 there would be only one ledger for the ITC credit therefore, they can use ITC for the goods/raw material/capital goods received in one factory for payment of GST for the clearance made from second unit or vice versa?

Question 6: For purchase of raw material/ capital good do we have to order and mentioned separate factory' address?

Answer: As the question of the applicant does not fall under the ambit of sub section (2) of the section 97 of the CGST Act, 2017 therefore, we refrain our-self from giving ruling on the question.

Question 7 : For invoice of clearance of goods does the applicant have to mention both addresses or the address of the concerned unit from which the goods are cleared?

Answer: As the question of the applicant does not fall under the ambit of sub section (2) of the section 97 of the CGST Act, 2017 therefore, we refrain our-self from giving ruling on the question.

19/05/2022

(VIKAS KUMAR JEPH)	(M. S. KAVIA)
Member	Member
(Central Tax)	(State Tax)

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