



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Taxes)
Sri Sahil Inamdar, I.R.S., Additional Commissioner (Central Taxes)

A.R.Com/11/2023

Date: 09.01.2024

TSAAR Order No.02/2024

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s. Ventair Engineers, 1st Floor, 15-19-1/45/A/1, Plot No.45, Teachers Co Operative Housing Society, Balaji Nagar, Khammam, Telangana-507002 (36ATWPR2686Q1Z9) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- under SGST and Rs. 5,000/- under CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided nor are pending before any authority under any provisions of the CGST/TGST Act'2017. The application is, therefore, admitted after examining it and the records called for and after hearing the applicant as per section 98(2) of TGST Act'2017.

4. BRIEF FACTS OF THE CASE:

- 4.1** M/s. Ventair Engineers have submitted that they are providing Industrial Equipment falling under HSN Codes: 84151090, 84798920, 84145930 on Rent/Leasing with Operators and are charging GST tax at the same rate as applicable for such new equipment sales according to equipment's HSN code which is provided on Rent/Lease.
- 4.2** According to the applicant objections are being raised by few customers on Rate of Tax on Rent/Lease with operator being charged, as customer's claim the applicable tax rate is uniform at 18% on all variety of industrial equipment and not according to the tax rate applicable on such new equipment's sales according to HSN code resulting in conflict and losing business.
- 4.3** According to the applicant the Naval Dock Yard, Visakhapatnam raised objection on applicability of tax rate on Equipment (HSN Code: 84151090) Rent/Leasing with Operator as 18% and not according to the GST tax rate of 28% applicable on sale of new equipment

according to the HSN Code: 84151090. Navel Dock Yard has released a conditional order as they are not accepting to the GST tax rate applicable according to HSN code, stating as GST tax shall be paid only after obtaining the clarifications from the competent authority in writing on applicability of GST Tax rate on Industrial Equipment HSN Code: 84151090 Rent/Leasing with operator and also furtherance of continuation of rent/lease order for the entire rate contract period.

4.4 Company Background:

The major activity of the applicant M/s. Ventair Engineers is Manufacture of machinery and equipment and is primarily engaged in the Manufacture of refrigerating or freezing equipment for industrial use. It has its unit situated at Khammam, Telangana.

5. QUESTIONS RAISED:

1. Applicable GST Tax Rate on Rental / Leasing Charges for Industrial Equipment's provided with operator falling under HSN Codes: 84151090, 84798920, 84145930

6. PERSONAL HEARING:

The Authorized representatives of the unit namely Sri. R.T.R.N. Bhan Sing, Manager & Sri Shanker, Accounts & authorized representative attended the personal hearing held on 24.05.2023. The authorized representatives reiterated their averments in the application. Further, the Authorised Representative/Applicant M/s. Ventair Engineers, Khammam, reiterated that their case /Similar Case is not pending in any proceedings in the applicant's case under any of the provision of the Act and have not already decided in any proceedings in the applicant's case under any of the provisions of the Act.

7. DISCUSSION & FINDINGS:

- 7.1 The applicant sought clarification on the applicable GST Tax Rate on Rental / Leasing Charges for Industrial Equipment's provided with operator falling under HSN Codes: 84151090, 84798920, 84145930.
- 7.2 Renting & Leasing services are given under section 7 of notification no.11/2017, as amended upto 18-07-2022. The entry at serial No. 17 enumerates heading 9973 & the service description for leasing or renting of goods is enumerated at (vii a) & (viii) as follows:

(vii)a) Leasing or renting of goods	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods.	
(viii) Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (vi) and (vii)a) above.	9	

As seen from the above the sub entry (viii) which enumerates Leasing or renting of Goods without operator attracts a rate of tax of 9% CGST & 9% SGST, therefore in the present case the service wherein the applicant is supplying goods along with an operator does not fall under this classification. Therefore this services will fall under sub entry (viii a) where Leasing or renting of goods in enumerated without reference to operator. Under this entry the rate of tax is same as rate of central tax and state tax as applicable on supply of goods involved.

- 7.3 The rate of tax of supply of goods involved in supply of service discussed above are elaborated as under:
 - (i) HSN Code 84151090 the question raised by the applicant is basing on the issue is verified with the Heading 8415 reads as below as schedule IV of notification 1/2017, dated.28.06.2017 which was amended from time to time which are taxable @14% Each under CGST and SGST.

- 8415 Air-conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated.
- 841510 Of A Kind Designed To Be Fixed To A Window, Wall, Ceiling Or Floor, Self-Contained Or "Split-System"
- 84151010 "Split-System"
- 84151090 Other

(ii) The Heading 8414 reads as below:

- 8414 Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; Gas-tight biological safety cabinets, whether or not fitted with filters [other than bicycle pumps, other hand pumps and parts of air or vacuum pumps and compressors of bicycle pumps.

The applicant supplies Industrial Equipment which falls under HSN Code 84145930. That the electric motor of these fans have an output exceeding 125 W. These fans are Industrial fans and attracting HSN 84145930. These industrial fans are liable to CGST at 9% vide Sr no. 317B to Schedule III of Notification 1/2017-CT(R) dated 28-6-17.

(iii) The Heading 8479 reads as below:

- 8479 Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter [other than Composting Machines.
- 8479 89 20 Air humidifiers or dehumidifiers (other than those falling under heading 8415 or 8424)

As per the Notification 01/20217, dated.28.06.2017 which is amended from time to time at Schedule - II with S. No:201, the applicable Rate of Tax is 6 % CGST.

8. In view of the foregoing, we rule as follows:

Questions	Ruling
Applicable GST Tax Rate on Rental / Leasing Charges for Industrial Equipment's provided with operator falling under HSN Codes:	The supplies of rental / leasing services made by the applicant fall under sub entry (viiia) of entry of sl no 17 of Notification 11/2017. Therefore the rate of tax for the service shall be same as applicable on supply of such goods which are :
1. 84151090	CGST 14% + SGST 14 %
2. 84798920	CGST 6% + SGST 6%
3. 84145930	CGST 9% + SGST 9%


(S.V. KASI VISWESWARA RAO)
(ADDL. COMMISSIONER (STATE TAXES))


(SAHIL INAMDAR)
(ADDL. COMMISSIONER (CENTRAL TAXES))

[Under Section 100 (1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this order]

To

M/s. Ventair Engineers

1st Floor, 15-19-1/45/A/1, Plot No.45,
Teachers Co-operative Housing Society,
Balaji Nagar, Khammam,
Telangana, 507002.

Copy submitted to :

1. The Commissioner (State Taxes) for information.
2. The Commissioner (Central Taxes), Rangareddy Commissionerate, H.No. 1-98/7/43, VIP Hills, Jaihind Enclave, Madhapur, Hyderabad 500 081.

Copy to:

3. The Joint Commissioner (State Taxes), Warangal Division.
4. The Assistant Commissioner (State Taxes). Khammam-I Circle.