

WEST BENGAL AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Dr Tanisha Dutta, Joint Commissioner, CGST & CX

Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018

Name of the applicant	SEKANDAR SARDAR
Address	C/o Sekandar Sardar, Vill & P.O. Boaldaha, Paikpara Bangaon, North 24 Paraganas, West Bengal- 743235.
GSTIN	19BJOPS8825F1ZH
Case Number	WBAAR 01 of 2024
ARN	AD191223007205J
Date of application	January 5, 2024
Jurisdictional Authority (State)	24 Paraganas, Barasat
Jurisdictional Authority(Central)	Barasat Division, Kolkata North Commissionerate
Order number and date	02/WBAAR/2024-25 dated 04.04.2024
Applicant's representative heard	Mr. Sujit Kumar Ghosh, Authorised Representative

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for

certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression “GST Act” would mean the CGST Act and the WBGST Act both.

1.2 The applicant is engaged in manufacturing of paper cups. The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking an advance ruling in respect of following questions:

- (i) Whether HSN Code 48236900 for paper cups is correct?
- (ii) Whether SGST @ 2.5% rate is rightly charged by us?
- (iii) Whether we can claim refund of excess input accumulated in credit ledger due to rate difference of input and outward supply?

1.3 The question raised by the applicant under serial number (iii) is found not to be covered under any of the clauses of sub-section (2) of section 97 of the GST Act. In course of hearing, the applicant has been informed that the application cannot be admitted in respect of the said question. The applicant has accepted the observation. However, questions raised under serial number (i) and (ii) respectively on which the advance ruling is sought for are found to be covered under clause (a) and (e) of sub-section (2) of section 97 of the GST Act.

1.4 The applicant states that the questions raised in the application have neither been decided by nor are pending before any authority under any provision of the GST Act.

1.5 The officer concerned from the revenue has raised no objection to the admission of the application.

1.6 The application is, therefore, admitted in respect of questions (i) and (ii) only.

Submission of the Applicant

2.1 The applicant runs a manufacturing unit where it produces paper cups. The applicant makes purchases of both printed and non-printed paper sheets and bobbin as inputs for the purpose of manufacturing of paper cup.

2.2 The applicant submits that it supplies the goods namely disposable paper cup as manufactured by him charging output tax @ 5% and the applicant classifies the item under HSN Code 4823 69 00. The applicant, in support of his submission, has furnished copy of an invoice through e-mail.

Submission of the Revenue

3.1 The concerned officer from the revenue has expressed his view on the issue stating that the instant item should be taxed @18%.

Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representative of the applicant during the course of personal hearing.

4.2 The applicant firm, a manufacturing unit is engaged in business of production of paper cups with a plastic coating i.e., laminated paper cups. In this process, the applicant procures raw materials like printed / non-printed paper sheets and bobbin for outward supply of finished goods.

4.3 A disposable paper cup is made out of paper and often coated with plastic or wax to prevent liquid from leaking out or soaking through the paper. It may be made of recycled paper. It is known that paper cups consist of approximately 95% high-degree cellulose paper board. Generally, disposable paper cups are composed of 5% inner polyethylene (PE) coatings to prevent leakage.

4.4 Chapter 48 of the First Schedule to The Customs Tariff Act, 1975 deals with the articles of paper, paper pulp or paper board. Further, Tariff item 4823 covers 'OTHER PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBERS, CUT TO SIZE OR SHAPE; OTHER ARTICLES OF PAPERPULP, PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBERS'. Furthermore, 'Trays. dishes, plates, cups and the like, of paper or paperboard' is covered under Tariff item 4823 40 00'.

4.5 We find that goods under following description falling under Chapter / Heading / Sub-heading / Tariff item 4823 is specified in entry serial number 157 of Schedule-III of Notification No. 1/2017-Central Tax (Rate) dated 28-6-2017 (as amended) and corresponding W.B.State Tax Notification No. 1125 F.T. dated 28.06.2017(as amended) and therefore would attract tax @ 18%:

'Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres [other than paper pulp moulded trays, Braille paper, kites, Paper mache articles]

4.6 We would like to mention here that the invoice, which has been sent by the applicant through e-mail, is found not to have been issued by the applicant. It is also noticed that in the

said invoice, although the product has been described as 'paper disposable cup', the same has been supplied under HSN 7114 11 00 which describes a completely different item.

In view of above, we rule as under:

RULING

Supply of disposable paper cup as manufactured by the applicant is covered under HSN 4823 40 00 and would attract tax @ 18%.

(Dr. Tanisha Dutta)
Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member

West Bengal Authority for Advance Ruling

Place – Kolkata

Date: 4th April, 2024

To,

SEKANDAR SARDAR,

C/o Sekandar Sardar, P.O. Boaldaha, Paikpara Bangaon,

North 24 Paraganas, West Bengal- 743235.

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX,180, Shantipally, R.B.Connector,
Kolkata-7000107
- (2) The Commissioner of Commercial Taxes, West Bengal, 14, Beliaghata Road,
Kolkata-700015
- (3) The JCCT, N.S. Road Charge,14, Beliaghata Road, Kolkata-700015
- (4) The Assistant Commisioner, Barasat Division, Range – IV, Kolkata North
Commissionerate, 180, Shantipally, Rajdanga Main Road, GST Bhawan, Kolkata -
700107.
- (4) Office Folder