

Reserved on : 16.04.2026

Pronounced on : 07.07.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 07TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION No. 192 OF 2022 (T-RES)

BETWEEN:

1. M/S BANGALORE METRO RAIL
CORPORATION LTD.,
REP. BY ITS DEPUTY GENERAL MANAGER
(TAXATION AND RESOURCES)
SRI THONTADARYA
AGED ABOUT 63 YEARS
3RD FLOOR, BMTC COMPLEX
K.H. ROAD, SHANTHINAGAR
BANGALORE – 560 027

...PETITIONER

(BY SRI. ANNAMALAI S., ADVOCATE)

AND:

1. KARNATAKA APPELLATE AUTHORITY FOR
ADVANCE RULING
6TH FLOOR, VANIJYA THERIGE KARYALAYA
KALIDASA ROAD
GANDHINAGAR
BANGALORE – 560 009
2. THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
VANIJYA THERIGE KARYALAYA



KALIDASA ROAD
GANDHINAGAR
BANGALORE – 560 009

3. THE ASSISTANT COMMISSIONER OF
CENTRAL TAX
SOUTH DIVISION - 1
BANGALORE SOUTH COMMISSIONERATE
2ND FLOOR, BMTC/TTMC BUILDING
BANASHANKARI
BANGALORE – 560 070

4. BHARAT EARTH MOVERS LIMITED
23/1, 4TH MAIN
BEML SOUDHA
S.R. NAGAR
BENGALURU – 560 027

...RESPONDENTS

(BY SRI. JEEVAN J. NEERALGI, SENIOR STANDING COUNSEL
FOR R1 TO R3;
SRI. RAVI RAGHAVAN, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
IMPUGNED ORDER DATED 03.09.2021 REFERRED TO AS
ANNEXURE - A PASSED BY THE RESPONDENT NO. 1 UNDER
SECTION 101 OF THE CGST ACT, 2017 AND KGST ACT, 2017
BEARING NO. KAR / AAAR -08 /2021 BEING ARBITRARY,
UNJUST AND ILLEGAL ON THE FACTS AND CIRCUMSTANCES OF
THE CASE AND ETC,.

THIS PETITION HAVING BEEN HEARD AND RESERVED
FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY,
K.V. ARAVIND J., PASSED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. ORDER

(PER: HON'BLE MR. JUSTICE K.V. ARAVIND)

Heard Sri S. Annamalai, learned counsel for the petitioner; Sri Jeevan J. Neeralgi, learned Senior Standing Counsel for respondent Nos.1 to 3, and Sri Ravi Raghavan, learned counsel for respondent No.4.

2. This petition is preferred impugning the order dated 03.09.2021 passed by the Karnataka Appellate Authority for Advance Ruling (respondent No.1) under Section 101 of the Central Goods and Services Tax Act, 2017 (for short, the "CGST Act"), and seeking consequential reliefs.

FACTUAL BACKGROUND

3. The brief facts of the case are that the petitioner - Bangalore Metro Rail Corporation Limited (BMRCL), is a joint venture of the Government of India and the Government of Karnataka, constituted for the implementation of the Bangalore Metro Rail Project. The petitioner had initially purchased train sets from a consortium comprising M/s. BEML, Hyundai Rotem, Melco and Mitsubishi Corporation (for short, 'BRMM'). In the

course of further expansion, the number of three-car train sets was increased from 50 to 150. In this regard, bids were invited.

3.1 Respondent No.4 - Bharat Earth Movers Limited (for short, 'BEML'), emerged as the successful bidder for the supply of 150 Standard Gauge Intermediate Cars compatible for suitable integration with the existing trains of BMRCL. The contract included the design and construction of the rail-based rapid transport system, and the supply, erection, commissioning and installation thereof. It is not necessary to examine the details and scope of the tender and the contract.

3.2 Under the terms of the contract, the petitioner agreed to reimburse the applicable GST to BEML. Thereafter, BEML filed an application under Section 98 of the CGST Act seeking a ruling on the classification of the service/supply. The Authority for Advance Ruling ("AAR"), by its ruling dated 06.04.2021, held that the transaction constituted a composite supply and would be taxed as a supply of intermediate cars in terms of Sections 8 and 12 of the CGST Act.

3.3 The Revenue preferred an appeal before the Karnataka Appellate Authority for Advance Ruling ("AAAR"). The AAAR, by order dated 03.09.2021, reclassified the supply. Certain

activities were held to constitute a supply of goods taxable at the rate of 5-12%, certain other activities were treated as a supply of services taxable at the rate of 18%, and some activities were classified as a supply of goods taxable at the rate of 18-28%. The said order is under challenge by the petitioner, contending that, in view of its contractual obligation to reimburse the applicable GST to respondent No.4 - BEML, the order passed by the AAAR entails civil consequences.

4. Before considering the matter on merits, an objection was raised regarding the maintainability of the writ petition on the ground that the petitioner was not a party to the proceedings before the Authority for Advance Ruling.

SUBMISSIONS

5. Sri S. Annamalai, learned counsel appearing for the petitioner, submits that the contract was entered into prior to the implementation of the GST regime and that the petitioner had agreed to reimburse the applicable GST payable by BEML. It is submitted that the expression "applicable GST" necessarily means GST as determined in accordance with law. It is further submitted that, in view of the contractual obligation to reimburse the applicable GST, the adjudication by the AAAR

determining a higher rate of GST directly affects the petitioner by imposing an enhanced financial burden and civil liability. Consequently, the petitioner has the requisite *locus standi* to maintain the present writ petition challenging the order passed by the AAAR.

5.1 It is submitted that, although the petitioner was not a party to the proceedings culminating in the impugned order, the petitioner is nevertheless subjected to direct and adverse civil and pecuniary consequences arising therefrom. It is further submitted that, in the absence of any other statutory forum for redressal of such grievance, a writ petition under Article 226 of the Constitution would be maintainable.

5.2 In support of the aforesaid submissions, reliance was placed on the following judgments:

COMPILATION NO.1:

- (i) ***Adi Pherozshah Gandhi v. H.M.Seervai***
1970 (2) SCC 484, of the Hon'ble Supreme Court,
- (ii) ***Bar Council of Maharashtra v. M.V. Dabholkar & Ors. (1975) 2 SCC 702***, of the Hon'ble Supreme Court,

- (iii) ***Maharaj Singh v. State of Uttar Pradesh & Ors. (1977) 1 SCC 155***, of the Hon'ble Supreme Court,
- (iv) ***Kikabhai Abdulali v. Income-tax Appellate Tribunal (1957) 32 ITR 762 (Bom)***, of Bombay High Court,
- (v) ***CIT v. N. Ch. R. Row & Co. [1983] 144 ITR 557 (Calcutta)***, of Calcutta High Court,
- (vi) ***Kone Elevator India (P.) Ltd v. State of Tamil Nadu [2014] 34 STR 641 (SC) (Constitution Bench)***, of the Hon'ble Supreme Court,
- (vii) ***BSES Ltd. (Now Reliance Energy Ltd) v. Fenner India Ltd and Anr. (2006) 2 SCC 728***, of the Hon'ble Supreme Court,
- (viii) ***Card Protection Plan Ltd (CPP) v. Commissioners of Customs & Excise, Case C-349/96 dt. 25/02/1999, European Court Reports 1999 I-00973 [ECJ]***,
- (ix) ***Levob Verzekeringen BV and OV Bank NV v. Staatssecretaris van Financien, Case C-***

41/04 dt. 27/10/2005, European Court Reports 2005 I-09433 [ECJ].

- (x) **Torrent Power Ltd., v. Union of India [2020] 34 GSTL 385 (Gujarat),**
- (xi) Circular No.118/37/2019-GST dt. 11/10/2019 issued by CBIC,
- (xii) **Titan Medical Systems (P.) Ltd. v. CoC (2003) 151 ELT 254 (SC),**
- (xiii) **CIT v. Shriram Pistons & Rings Ltd. (1990) 181 ITR 230 (Del.),**
- (xiv) **Orissa Mining Corporation Ltd. v. CIT (2007) 293 ITR 502 (Orissa).**

COMPILATION NO.2:

- (i) **Naga Ltd. v. Puducherry Authority for Advance Ruling ([2024] 158 taxmann.com 306)** of Madras High Court,
- (ii) **I.D.L. Chemicals Ltd. v. Union of India ([1996] 5 SCC 373)** of the Hon'ble Supreme Court,
- (iii) **M/s. M. Amurtham Petroleum Agency v. the Additional Deputy Commercial**

Tax Officer [W.P. 15804/2014 dated 07.04.2016] of Madras High Court,

- (iv) **Ayaaubkhan Noorkhan Pathan v. State Of Maharashtra and Ors. ([2013] 4 SCC 465)** of the Hon'ble Supreme Court,
- (v) **Babua Ram and others v. State of U.P. and another [(1995) 2 SCC 689]** of the Hon'ble Supreme Court,
- (vi) **K. Ajit Babu and others v. Union of India and others, [(1997) 6 SCC 473]** of the Hon'ble Supreme Court,
- (vii) **Dr. Jiji K.S. and others v. Shibu K., and others** in **SLP (Civil) No.8737 of 2021** dated **27th February 2026** of the Hon'ble Supreme Court,
- (viii) **Anita Kushwaha v. Pushap Sudan, [(2016) 8 SCC 509]** of the Hon'ble Supreme Court,
- (ix) **Asst. General Manager, Central Bank of India & Others v. Commissioner, Municipal Corporation for the City of**

Ahmedabad & Others, (1995) 4 SCC

696, of the Hon'ble Supreme Court,

(x) ***M/s. Gayatri Projects Ltd. and Anr v. Asst. Com. State Tax, Durgapur, (MAT/2024/2022) dated 05.01.2023***

of Calcutta High Court,

(xi) ***Halliburton Offshore Services Inc. v. Union of India and another, WP No.14517/2023 dated 11.02.2026 (Andra Pradesh HC).***

5.3 Learned counsel for the petitioner has filed a compilation comprising fourteen judgments in Volume No.1 and eleven judgments in Compilation No.2. However, the attention of the Court was invited only to the judgments at Serial Nos.1, 2 and 10 in Compilation No.2.

6. Sri Jeevan J. Neeralgi, learned Senior Standing Counsel appearing for respondent Nos.1 to 3, submits that an application was filed by respondent No.4 seeking classification of the service/supply, and the same was adjudicated by the AAR in favour of respondent No.4/applicant. Aggrieved by the said ruling, the Revenue preferred an appeal before the AAAR,

wherein a ruling came to be passed classifying the supplies and services, attracting GST at rates varying from 5% to 28%.

6.1 It is submitted that, in view of the express provisions contained in Section 103 of the Act, the ruling rendered by the AAR or the AAAR is binding only on the applicant who had sought the advance ruling and on the concerned officer. It is contended that the decision of the AAR or the AAAR is a decision *in personam* and binds only the parties to the proceedings.

6.2 It is further submitted that the petitioner, being a third party, has no *locus standi* to challenge the ruling. It is also submitted that the dispute regarding the rate of GST emanates from the contractual obligations between the petitioner and respondent No.4, whereas what has been adjudicated by the AAR is only the classification of the supply and services. It is further submitted that, in the absence of any agreement between the petitioner and respondent No.4 regarding the classification of goods or services, the petitioner cannot claim to be aggrieved, as the financial implications agreed upon between the parties have not undergone any change.

Therefore, it is contended that the writ petition is not maintainable for want of *locus standi*.

7. Sri Ravi Raghavan, learned counsel appears for respondent No.4.

QUESTION FOR CONSIDERATION

8. Having considered the submissions made by the learned counsel for the parties, the question that arises for consideration before this Court is whether a writ petition challenging an order passed by the Authority for Advance Ruling or the Appellate Authority for Advance Ruling can be maintained by a person other than the applicant and the concerned officer, and whether such a writ petition is maintainable in the absence of *locus standi*.

REASONING

Our answer to the above question is in the 'negative' for the reasons below.

9. As per Section 97, an applicant desirous of obtaining an advance ruling may make an application stating the question on which such advance ruling is sought. Under sub-section (2) of Section 97, an advance ruling may be sought in respect of

the various issues enumerated therein. Section 98 prescribes the procedure to be followed upon receipt of an application for advance ruling. One such requirement is the forwarding of a copy of the application to the concerned officer. The next stage is the admission or rejection of the application. Upon admission of the application, the Authority, after affording an opportunity of hearing to the applicant and the concerned officer, shall pronounce its ruling on the questions specified in the application. A copy of the advance ruling so pronounced is required to be forwarded to the applicant and the concerned/jurisdictional officer.

9.1 Thereafter, Sections 99 to 101 provide the appellate mechanism before the Appellate Authority for Advance Ruling. Section 103 deals with the applicability of the advance ruling. For the sake of convenience, Sections 97, 98, 99, 100, 101 and 103 are extracted hereunder:

"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.*

98. Procedure on receipt of application.— (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.

(4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.

(7) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

99. Appellate Authority for Advance Ruling.— Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

100. Appeal to Appellate Authority.— (1) The concerned officer, the jurisdictional officer or an

applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

101. Orders of Appellate Authority.— *(1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.*

2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.

(3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

(4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

.....

102. Rectification of advance ruling.— *The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of six months from the date of the order:*

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

103. Applicability of advance ruling.— (1) *The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—*

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.”

9.2 Section 103 binds only the applicant and the concerned officer or the jurisdictional officer to the advance ruling pronounced by the Authority or the Appellate Authority. A plain reading of Section 103 makes it clear that the ruling pronounced is binding only on the applicant and the concerned authority. Having regard to the scope and ambit of Chapter

XVII dealing with advance rulings, there is no scope to bind third parties. Similarly, there is no scope for a challenge at the instance of any person other than the applicant or the concerned officer, irrespective of the consequences flowing from such ruling.

9.3 Such consequences may include an additional financial liability or even an alteration in the contractual obligations between the parties. In view of the specific language employed in Section 103, the advance ruling is effective and binding only in relation to the parties, facts and law as stated in the application and considered while rendering the advance ruling. Having regard to the legislative intent and the scope of the provisions, this Court does not find any scope for a third party either to claim the benefit of such ruling or to question the same.

9.4 Any financial implication arising by way of increased liability pursuant to an advance ruling is merely a consequence flowing from such ruling in the light of the contractual obligations between the parties. Chapter XVII has a definite and limited purpose, namely, to determine the liability under the Act in respect of a transaction proposed to be undertaken

or already being undertaken. When the scheme of the entire Chapter confines the binding effect only to the applicant and the concerned officer, no independent grievance can be said to arise in favour of a third party.

9.5 Having regard to the scheme of Chapter XVII, an advance ruling does not bind a third party, and such third party would nevertheless be entitled to agitate its rights or claims in accordance with the terms of the contract. The general principle that an aggrieved person is one who suffers adverse consequences by reason of a decision cannot be mechanically applied to pronouncements rendered under Chapter XVII of the Act. The expression "aggrieved person", as understood in common parlance or under other enactments enabling a challenge to an order, cannot be imported into proceedings under Chapter XVII of the Act.

9.6 The ruling has not altered the rate of GST agreed upon between the petitioner and respondent No.4. When the rate of GST applicable or reimbursable has not been agreed upon between the parties, it cannot be said that the ruling has imposed any civil consequences on the petitioner. The ruling

does not have the effect of altering the agreed contractual terms.

9.7 The definite purpose and binding nature contemplated under Chapter XVII require to be interpreted in accordance with the object and purpose of the Chapter, and the same cannot be widened or altered. Any such exercise would amount to rewriting the statutory provisions, which is impermissible.

9.8 Another aspect that requires consideration is that the Authority for Advance Ruling is essentially an alternate advance dispute resolution mechanism between the applicant and the concerned authority. It cannot be treated or equated with general litigation so as to permit third parties to enter the arena of such proceedings. On an examination of the scheme of Chapter XVII, it is evident that the said Chapter constitutes a complete code in itself and, being a special enactment, the general principles governing the interpretation of the expression "aggrieved person" have no application.

10. Before proceeding to examine the applicability of the judgments cited by the learned counsel for the petitioner, this Court finds it necessary to consider the judicial pronouncements on the issue. The Madras High Court, in the

case of **Haji K.P.M. Abdul Kareem vs. Assistant Commissioner ([2025] 140 GSTR 331)**, has held that the decision of the Authority for Advance Ruling or the Appellate Authority for Advance Ruling, as the case may be, is a decision *in personam*, and the decision/opinion of such authority is binding only on the parties to the said proceedings. While interpreting Section 103 of the GST, it has been held that once an assessee approaches the AAR or the AAAR, the decision rendered by such authorities is binding on the applicant and the concerned officer or the jurisdictional officer in charge of the office within whose jurisdiction the applicant is assessed to tax.

10.1 By statutory design under the enactments, the orders passed by the AAR or the AAAR, as the case may be, are binding not only on the applicant who seeks the clarification but also on the concerned jurisdictional officer under whose jurisdiction such applicant is assessed to tax.

10.2 The Calcutta High Court, in the case of **Sarkar Diesel and Another vs. Deputy Commissioner, FMA 604/2024** dated **25.06.2024** has held that an advance ruling binds only the Department and the applicant who approached the AAR seeking a decision, and does not bind a third-party taxpayer.

10.3 The Bombay High Court, in the case of **Jotun India Private Limited vs. Union of India and Others**, reported in **([2023] 109 GSTR 191)**, while interpreting Section 103 of the Act, held as under:

"...

Thus, the advance ruling pronounced by the Authority and the Appellate Authority shall be binding only on the Applicant who has sought it for any matter under section 97(2) for advance ruling and the concerned officer or the jurisdiction officer in respect of the applicant. Section 104 lays down that where the applicant or the appellant obtains the advance ruling pronounced by the Authority or the Appellate Authority by fraud or suppression of material facts and misrepresentation of facts; the Authority may declare such rule to be void ab initio. Therefore, the legislative scheme indicates that the advance ruling is distinct from the appeal and revision. The order is binding only on those specified under section 103 of the Act. This, in short, is the scheme of advance ruling under the Act.

11. Under the above scheme, it is the applicant who seeks an advance ruling on the matter as specified, which is not pending or decided in the applicant's case and the decision so given after hearing the applicant and the concerned officer is binding on the applicant or the concerned jurisdictional officer. Therefore, no further appeal is provided. This legislative scheme has to be kept in mind when the applicant challenges the order passed by the Authorities invoking writ jurisdiction. The Court will have to be mindful of the fact that the advance ruling is binding in a limited sense. Our enquiry is whether the orders passed by both the Advance Ruling Authorities, which have limited application, need any interference in writ jurisdiction in this petition filed by the Petitioner, who has sought the advance ruling."

10.4 The Madhya Pradesh High Court, in the case of ***Mahendra Singh vs. Assistant Commissioner, State Tax and Others*** in Writ Petition No.5186/2025 dated 10.09.2025, while interpreting Section 103 of the Act, held that an advance ruling rendered in the case of one person cannot be applied to another person and that such ruling would not bind anyone other than the applicant and the concerned authority.

10.5 The principle that emerges from the aforesaid judgments, on a plain interpretation of Section 103, is that an advance ruling binds only the applicant and the concerned authority. Consequently, a challenge to such advance ruling at the instance of any person other than the applicant or the concerned authority is impermissible. In that view of the matter, it cannot be held that the petitioner is an aggrieved person having the requisite *locus standi* to challenge the order passed by the Authority for Advance Ruling or the Appellate Authority for Advance Ruling.

ANALYSIS OF THE JUDGMENTS CITED

11. We shall now examine the applicability of the judgments relied upon by the learned counsel for the petitioner before this Court. As noticed hereinabove, though the learned counsel for

the petitioner has filed two compilations of judgments comprising fourteen judgments in the first volume and eleven judgments in the second volume, reliance was placed only on three judgments contained in the second compilation. Therefore, our discussion is confined to the applicability of the said three judgments.

12. In **Naga Ltd.** (*supra*) of the Madras High Court, firstly, there is no consideration of Section 103 of the Act. Secondly, in the said case, the exemption under which the benefit accrued to the petitioner therein was interpreted to be inapplicable at the instance of an application filed before the AAR by another person. Moreover, the Madras High Court, in **Haji K.P.M. Abdul Kareem** (*supra*), upon a detailed analysis and comparative study of similar provisions under the Customs Act, the Central Excise Act and the CGST Act, has held that an advance ruling binds only the applicant and the concerned officer. It was further held that the decision rendered is one *in personam*, binding only the parties to the proceedings. Though the Madras High Court has expressed divergent views, the decision in **Naga Ltd.,** (*supra*) does not advance the case of the petitioner.

13. The judgment of the Hon'ble Supreme Court in ***I.D.L. Chemicals Ltd.*** (*supra*), relied upon by the petitioner dealt with the correctness of the reclassification of goods. The provision analogous to Section 103 of the Act, which forms part of Chapter XVII and constitutes a complete code in itself, was not under consideration before the Hon'ble Supreme Court. Hence, the said decision is not applicable to the facts and circumstances of the present case.

14. Further, reliance has been placed on the judgment of the Calcutta High Court in ***M/s. Gayatri Projects Ltd.*** (*supra*). In the said decision, it was held that the appellant could not be non-suited by virtue of an order passed by the authority without affording an opportunity of hearing to it, and that the appellant should not be left remediless. The writ petition therein was instituted at the instance of a third party.

14.1 However, the Calcutta High Court, in the said decision, did not consider the language, scope and effect of Section 103 of the CGST Act. Further, it is pertinent to note that the Calcutta High Court, in ***Sarkar Diesel*** (*supra*), has categorically held that an advance ruling binds only the applicant and the concerned authority, and not a third-party

taxpayer. Thus, there appears to be an inconsistency in the views expressed by the Calcutta High Court also.

14.2 Be that as it may, since the decision in ***M/s. Gayatri Projects Ltd.*** (*supra*) was rendered without interpreting Section 103 of the CGST Act, we are of the considered view that the same does not render any assistance to the case of the petitioner.

15. Coming to the facts of the present case, in order to ascertain whether the petitioner can be regarded as an aggrieved person, it is necessary to note that there exists a contract for supply between the petitioner and respondent No.4.

16. The Letter of Acceptance dated 21.03.2017 issued by the petitioner in favour of respondent No.4 is placed on record as Annexure-D3. The stipulation in the agreement with regard to VAT/GST reads as under:

"The contract price for spares shall include Basic Custom duty (at the concessional duty rate available under the Project Import Registration).

However, the VAT payable will not be part of the contract price. VAT on spares as invoiced by M/s BEML Limited to BMRCL shall be reimbursed to M/s BEML Limited.

In the event of GST being implemented, GST as applicable shall be reimbursed to M/s BEML Limited as invoiced by M/s BEML Limited to BMRCL

In case of decrease/increase in the rate of Basic Custom Duty, the contract price shall be decreased / increased accordingly

(ii) In case of indigenous spares, the contract price shall include the following duties and taxes:

A Excise duties and CST on indigenous finished spares

The contract price shall not include the VAT payable on the transaction between the M/s BEML Limited and BMRCL. BMRCL shall reimburse the VAT payable to M/s BEML Limited as invoiced by M/s BEML Limited.

In the event of GST being implemented during the contract period, BMRCL shall reimburse the applicable GST to M/s BEML Limited as invoiced by M/s BEML Limited to BMRCL”

17. The clause relating to VAT/GST contained in Attachment B to Annexure-D reads as under:

"Cost Centre-G: Spares

(i) In case of imported spares, the contract price shall include the following duties and taxes.

- *Custom duties (including CVD and SAD) on imported finished spares.*

But the VAT payable will not be part of the contract price. VAT on spares as invoiced by the Contractor to BMRCL shall be reimbursed to the contractor.

The contract price for spares shall include Basic Custom duty (at the concessional duty rate available under the Project Import Registration). In the event of GST being implemented, GST as

applicable shall be reimbursed to the Contractor as invoiced by the Contractor to BMRCL.

In case of decrease/increase in the rate of Basic Custom Duty, the contract price shall be decreased / increased accordingly.

(ii) In case of indigenous spares, the contract price shall include the following duties and taxes.

- *Excise duties and CST on indigenous finished spares.*

The contract price shall not include the VAT payable on the transaction between the Contractor and BMRCL. BMRCL shall reimburse the VAT payable to the Contractor as invoiced by the Contractor.

In the event of GST being implemented during the contract period, BMRCL shall reimburse GST to the Contractor as invoiced by the Contractor to BMRCL.

If required by BMRCL, the successful Bidder shall furnish the details of the taxes/duties/levies/cess etc, paid to the state Government, Government of India or any local bodies."

18. In Attachment C, it reads as under:

"Cost Centre-G: Spares

(i) In case of imported spares, the contract price shall include the following duties and taxes.

- *Custom duties (including CVD and SAD) on imported finished spares.*

But the VAT payable will not be part of the contract price. VAT on spares as invoiced by the Contractor to BMRCL shall be reimbursed to the contractor.

The contract price for spares shall include Basic Custom duty (at the concessional duty rate available under the Project Import Registration). In the event of GST being implemented, GST as

applicable shall be reimbursed to the Contractor as invoiced by the Contractor to BMRCL.

In case of decrease/increase in the rate of Basic Custom Duty, the contract price shall be decreased / increased accordingly.

(ii) In case of indigenous spares, the contract price shall include the following duties and taxes:

- *Excise duties and CST on indigenous finished spares*

The contract price shall not include the VAT payable on the transaction between the Contractor and BMRCL. BMRCL shall reimburse the VAT payable to the Contractor as invoiced by the Contractor.

In the event of GST being implemented during the contract period, BMRCL shall reimburse GST to the Contractor as invoiced by the Contractor to BMRCL.

If required by BMRCL, the successful Bidder shall furnish the details of the taxes/duties/levies/cess etc, paid to the state Government, Government of India or any local bodies."

19. The Contract Agreement dated 25.03.2017 for the supply of 150 Standard Gauge Intermediate Cars is produced as Annexure-D5. The clause dealing with GST in the said agreement reads as under:

"In the event of implementation of Goods & Service Tax (GST), BMRCL shall reimburse the applicable GST as invoiced to BMRCL by the Contractor.

In case of decrease/increase in the rate of Basic Custom Duty, the contract price shall be decreased / increased accordingly.

B) Cost Centre 'G'-Spares"

The Contract price for Cost Centre "G" (Unit exchange spares, Mandatory spares Consumable spares, Special tools, Jigs, Fixtures, Gauges. Testing and Diagnostic Equipment) is Euro 2,515,637 (EURO Two Million Five Hundred Fifteen thousand Six hundred and Thirty Seven), JPY 84,524,000 (Japanese Yen Eighty Four million Five hundred and twenty Four thousand) and INR 444,560,498 (Indian rupees Four hundred Forty Four million Five hundred sixty thousand Four hundred and Ninety eight) only.

(i) In case of imported spares, the contract price shall include the following duties and taxes:

- Custom duties (including CVD and SAD) on imported finished spares.*

The Contract price for spares shall include Basic Custom duty (at the concessional duty rate available under the Project Import Registration).

However, the VAT payable will not be part of the contract price. VAT on spares as invoiced by the Contractor to the Employer shall be reimbursed to the Contractor.

In the event of GST being implemented, GST as applicable shall be reimbursed to the Contractor as invoiced by the Contractor to the Employer.

in case of decrease/increase in the rate of Basic Custom Duty, the contract price shall be decreased / increased accordingly.

(ii) In case of indigenous spares, the contract price shall include the following duties and taxes:

- **Excise duties and CST on indigenous finished spares***

The Contract price shall not include the VAT payable on the transaction between the Contractor and the Employer. The Employer shall reimburse the VAT payable to the Contractor as invoiced by the Contractor.

In the event of GST being implemented during the contract period, Employer shall reimburse the applicable GST to the Contractor as invoiced by the Contractor to the Employer."

20. On a reading of the above clauses, it is evident that there is no agreement between the parties regarding the classification of the supply of goods or services. Neither the classification of the supply nor the applicable rate of GST has been determined or agreed upon between the parties. What has been agreed under the contract is only that petitioner-BMRCL shall reimburse the applicable GST as invoiced by the contractor, namely respondent No.4. A similar arrangement existed even when VAT regime was in force.

21. The expression "applicable GST" can only mean the rate of GST applicable to the particular class of supply of goods or services as determined in accordance with law. It cannot be construed as a rate understood or mutually agreed upon by the parties. In fact, there was no such understanding between the parties, as neither the classification of the supply of goods or services nor the applicable rate of GST had been agreed upon.

22. For the purpose of ascertaining the classification of the supply of goods or services, respondent No.4 preferred an

application before the AAR. The AAR thereafter issued a ruling classifying the supplies as goods or services and determining the applicable rates of GST. The said classification has been accepted by respondent No.4. Respondent No.4, though the applicant before the AAR, has not challenged the ruling rendered by the AAAR. When respondent No.4, being the supplier of the goods/services, has accepted the classification of the said goods/services, can the recipient of such goods/services question that classification? The answer is in the negative.

23. When there is no understanding or agreement between the parties regarding the classification of the contractual work and the applicable rate of GST, the question of any financial implication or civil liability arising does not arise. Such a contention could be available only where the agreed classification and the agreed rate of GST under the contract are altered by virtue of a ruling issued by the AAAR.

24. When the contract is completely silent with regard to the classification of the supply and the applicable rate of GST, and the agreement between the parties is merely to reimburse the applicable GST, the expression "applicable GST" would

necessarily mean the GST as determined in accordance with law, including as determined in the ruling rendered by the AAAR at the instance of respondent No.4, which ruling has been accepted by the applicant.

25. Under the guise of challenging the ruling of the AAAR, what is in fact sought to be achieved is a modification of the contractual terms between the parties, which is otherwise not contemplated under the contract. For such a purpose, it cannot be held that the petitioner is an aggrieved person.

26. In all the judgments relied upon by the petitioner, there existed a pre-determined liability which stood altered by virtue of the ruling or decision under challenge. It was in those circumstances that the concept of an aggrieved person came to be examined. However, in the facts of the present case, having regard to the clauses contained in the agreement referred to hereinabove and for the reasons already recorded by us, when there is no contractual stipulation classifying the supply of goods or services or specifying the applicable rate of GST, the question of the impugned ruling imposing any additional liability does not arise. Consequently, the petitioner cannot be regarded as an aggrieved person.

CONCLUSION

27. In the light of the foregoing discussion, we conclude that the petitioner, being a third party and neither the applicant nor the concerned authority, has no *locus standi* to challenge the order passed by the AAR or the AAAR by invoking Article 226 of the Constitution of India. The ruling rendered by the AAR or the AAAR is a decision *in personam* and binds only the applicant and the concerned/jurisdictional authority, and not any other party.

28. The impugned ruling issued by the AAAR does not bind the petitioner and, therefore, the petitioner cannot be regarded as an aggrieved person having the requisite *locus standi* to maintain the present writ petition. Further, when the contract entered into between the petitioner and respondent No.4 does not provide for the classification of the supply of goods or services, or stipulate the applicable rate of GST, the question of the advance ruling rendered by the AAAR imposing any additional liability, pecuniary burden or civil consequence upon the petitioner does not arise.

29. Entertaining the present writ petition would necessarily require this Court to interpret the contract as incorporating

clauses relating to the classification of goods or services and the applicable rate of GST, which are otherwise absent in the contract. Such an exercise would, in effect, amount to amending or rewriting the terms of the contract, which is impermissible in exercise of jurisdiction under Article 226 of the Constitution of India.

30. For the reasons assigned hereinabove, we hold that the writ petition is not maintainable for want of *locus standi* and is, accordingly, ***dismissed***.

Pending I.As' if any, stand disposed of.

**Sd/-
(S.G.PANDIT)
JUDGE**



**Sd/-
(K. V. ARAVIND)
JUDGE**

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