

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:

Sarthak Saxena, 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 thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

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|------------------------------------|---|
| Name of the applicant              | VISHNU ENGINEERING CORPORATION                              |
| Address                            | 19, BIPLABI ANUKUL CHANDRA STREET, BOWBAZAR, Kolkata-700072 |
| GSTIN                              | 19AACFV4761H1ZW   |
| Case Number                        | WBAAR 14 of 2023  |
| ARN                                | AD190423005721E   |
| Date of application                | April 13, 2023  |
| Jurisdictional Authority (State)   | Chandni Chawk Charge  |
| Jurisdictional Authority (Central) | BBD Bag II Division, Kolkata North Commissionerate          |
| Order number and date              | 14/WBAAR/2023-24 dated 26.06.2023                           |
| Applicant's representative heard   | Mr Aman kumar Jaiswal, Authorized Representative            |

1.1 At the outset, we would like to make it clear that 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 stated to be engaged in trading business of electrical motors and other connected items. It is submitted by the applicant that Indian Oil Corporation Limited (IOCL, for short) has floated an auction for dismantling and disposal of LPG storage. The terms and conditions of the auction requires the applicant to dismantle the storage tanks at the site of IOCL in the state of Assam and to take delivery from the site.

1.3 In the backdrop of aforesaid activities, the applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

- (i) The applicant is registered in West Bengal. If it buys goods at Guwahati, can it sell the material directly in Assam without taking GST registration in Assam. If yes, then does the applicant need to charge 18% IGST or the applicant has to charge 9% CGST and 9% SGST?
- (ii) The applicant would be buying or availing some services locally at site. The supplier of the applicant will raise the invoice at which address i.e. at Kolkata address or at IOCL address. The supplier will charge them IGST or CGST and SGST.
- (iii) Can the applicant sell the materials directly to a furnace mill in Durgapur, West Bengal? If yes then what do the applicant need to charge in invoice-IGST or CGST and SGST?
- (iv) In all the cases cited above, what will be the procedure to generate E- waybills?

1.4 Section 97 of the GST Act deals with application for advance ruling. As per sub-section (1) of section 97, an applicant may make an application to obtain an advance ruling stating the questions on which the ruling is sought. Further, the questions on which advance ruling can be sought for shall be in respect of matters specified under clause (a) to (g) of sub-section (2) of section 97. Furthermore, the ruling pronounced by the Authority for Advance Ruling (the AAR, for short) is binding only on the applicant and on the concerned officer or the jurisdictional officer in respect of the applicant. Therefore, the ruling given by the AAR constituted by notification of any State Government shall be applicable only within the jurisdiction of the concerned state.

1.5 This authority finds that the question raised by the applicant under serial number (i) is in respect of requirement of registration under the GST Act .However, the aforesaid question cannot be dealt with clause (f) of sub-section (2) of section 97 since the question involves

requirement of registration in the state of Assam. Rest of the questions under serial number (ii) to (iv) are found not to be covered under any of the clauses from (a) to (g) of sub-section (2) of section 97 of the GST Act.

1.6 The aforesaid observations were brought into the notice of the authorised representative of the applicant and further opportunity was allowed to the applicant to furnish a written submission in support of admissibility of the instant application.

1.7 Accordingly, the authorised representative of the applicant has furnished a written submission before this authority contending that:

(A) Being a registered person in West Bengal, the first point of action of the applicant is to apply for ruling in its home state i.e., in the state of West Bengal. Though the principal place of business of the applicant is in West Bengal, the applicant occasionally needs to carry on business activities in other states which are of temporary nature or short-term venture and such business activities are managed effectively from the permanent establishment located in West Bengal.

(B) Section 22 of the CGST Act states that every supplier shall be liable to be registered in the state where he makes taxable supply of goods or services or both if his aggregate turnover in a financial year exceeds Rs. 20 lakhs. Referring to this provision, the applicant is of the view that registration is required at a place from where supply is made i.e. before applying for registration in that particular state, the applicant needs to have any fixed establishment in that state. If that be the case, the applicant doesn't have any fixed establishment in Assam.

In the aforesaid submission, the applicant has also expressed his apprehension as under:

(C) The applicant may be in trouble in future if registration is granted to the applicant in Assam and the applicant charges IGST or CGST or Assam GST on his taxable supplies but which in a subsequent period is held to be incorrect by the West Bengal Department for GST in course of any proceedings.

(D) The applicant may be questioned if goods are dispatched by him from Assam without getting himself registered in the state of Assam.

1.8 The submission of the applicant has duly been considered. Sub-section (1) of section 96 speaks that the Government shall, by notification, constitute an Authority to be known as the West Bengal Authority for Advance Ruling. The said sub-section also makes provision to notify any Authority located in another State to act as the Authority for the State. In exercise

of the aforesaid power conferred by sub-section (1) of section 96, the West Bengal Authority for Advance Ruling has been constituted vide Notification No. 1157-F.T dated the 30th day of June, 2017. Further, sub-section (2) of section 1 of the West Bengal Goods and Services Tax Act, 2017 speaks that the Act extends to the whole of the State of West Bengal. We thus find that though clause (f) of sub-section (2) of section 97 enables the applicant to make the instant application seeking an advance ruling whether the applicant is required to be registered, this authority is not empowered to pronounce any ruling in cases where the question is found to be in respect of registration required to be obtained in a State other than the State of West Bengal.

1.9 The subject matter of other questions are as follows:

- Determination of address to be mentioned in the invoice issued by the supplier of the applicant and tax to be charged thereon;
- Whether the applicant can supply goods from Assam to West Bengal and tax to be charged in that event;
- Procedure to generate e-way bill.

1.10 All the aforesaid issues are found not to be covered under any of the clauses of sub-section (2) of section 97 of the GST Act.

1.11 In the light of discussions as detailed herein above, we are unable to accept the instant application for pronouncement of ruling. The application, therefore, is rejected.

(SARTHAK SAXENA)

Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 26<sup>th</sup> June, 2023

To,

VISHNU ENGINEERING CORPORATION  
19, BIPLABI ANUKUL CHANDRA STREET, BOWBAZAR, Kolkata-700072

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-7000107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Joint Commissioner, Chandni Chawk Charge, 14, Beliaghata Road, Kolkata-700015
- (4) The Commissioner of CGST, Kolkata North Commissionerate 180, Shantipally, R.B. Connector, Kolkata-7000107
- (5) Office Folder