

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:

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

Name of the applicant	NORBE PHARMACY LLP
Address	NORBE MEDICARE PRIVATE LIMITED, GROUND FLOOR, NAGESWARPUR, MALDA, PIN-732142
GSTIN	19AASFN9422D1ZW
Case Number	WBAAR 11 of 2023
ARN	AD1902230029465
Date of application	April 05,2023
Order number and date	17/WBAAR/2023-24 dated 13.07.2023
Present for Applicant	None

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 fact of the case as it appears from the submission made by the applicant in FORM GST ARA-01 is that the applicant was registered under composition scheme for the period from 1st April, 2022 to 27th July, 2022 and thereafter ceases to pay tax under section 10 on account of crossing the threshold limit.

1.3 In terms of clause (c) of sub-section (1) of section 18 of the GST Act read with sub-rule (1) of rule 40 of the Central Goods and Services Tax Rules, 2017 (the CGST Rules, for short) and the West Bengal Goods and Services Tax Rules, 2017 (the WBGST Rules, for short), where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9 and to avail such credit of input tax, the registered person shall make a declaration, electronically, on the common portal in FORM GST ITC-01 within a period of thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, or within such further period as may be extended by the Commissioner by a notification in this behalf.

1.4 The applicant has submitted that FORM GST ITC-01 could not be filed due to software and bulk items which were there in stock and proper accounting of the same.

1.5 The applicant has filed 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:

- (a) How to condone the delay in filing ITC – 01?
- (b) Whether the delay in filing ITC -01 be condoned?
- (c) How to avail the ITC of the closing stock lying on 27th July, 2022?

1.6 An applicant desirous of obtaining an advance ruling is required to file an application on the common portal in FORM GST ARA-01 accompanied by a fee of five thousand rupees under the CGST Act and the WBGST Act both. However, the instant application is found not to be supported by such payment of required fee.

1.7 Further, as per sub-section (2) of section 97 of the GST Act, 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.

1.8 The questions on which advance ruling is sought by the applicant are found not to be covered under any of the aforesaid clauses.

1.9 The applicant was initially asked to appear on 04.05.2023. But none appeared on the appointed date nor was any communication made from the end of the applicant. Thereafter, the applicant has been allowed two more opportunities, one of which is upon due consideration of the prayer for adjournment made by the applicant through e-mail. However, neither the applicant nor his authorised representative could manage to appear on any of the appointed dates. We are, therefore, of the opinion that the applicant has been allowed sufficient opportunities of being heard.

1.10 Now we proceed to dispose of the application considering the facts of the case, questions raised by the applicant and non-payment of requisite fee. Based on the facts stated earlier that the questions on which advance ruling is sought by the applicant are not covered under any of the clauses under sub-section (2) of section 97 of the GST Act and the application has been filed without making payment of requisite fee referred to in sub-section (1) of section 97 of the GST Act read with sub-rule (1) of rule 104 of the Central Goods and Services Tax Rules, 2017 and the West Bengal Goods and Services Tax Rules, 2017, we are of the view that there may not be any reason to accept the application made by the applicant for pronouncement of ruling. The application, therefore, is rejected.

(TANISHA DUTTA)
Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 13th July, 2023

To,
NORBE PHARMACY LLP
NORBE MEDICARE PRIVATE LIMITED,
GROUND FLOOR, NAGESWARPUR, MALDA, PIN-732142

Copy to:

- (1) The Principal Commissioner, CGST & CX, 180, Shantipally, GST Bhavan, Rajdanga Main Road, Kolkata-700107
- (2) The Commissioner of Commercial Taxes, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Sr. Joint Commissioner, Malda Charge, MSK/SSK Building, Bagbari, Khoarmore, P.O.- Maliha, Maldah-732102
- (4) The Chief Commissioner, Siliguri Commissionerate, 3rd floor, C.R. Building, Haren Mukherjee Road, Hakimpura, Siliguri, Pincode-734001
- (5) Office Copy