

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	MARIEGOLD INDUSTRIES PRIVATE LIMITED
Address	50B, CAPITAL MARKET, LADENLA ROAD, DARJEELING, WEST BENGAL, PINCODE-734101
GSTIN	19AADCM5439R1ZO
Case Number	WBAAR 10 of 2023
ARN	AD190323013788W
Date of application	April 04,2023
Order number and date	18/WBAAR/2023-24 dated 24.07.2023
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 applicant Mariegold Industries Private Limited submits that he is inter alia engaged in business of providing job work service of crushing wheat provided by the State Government, into fortified atta for supply through Public Distribution System by the State Government. The applicant has entered into an agreement with the Food and Supplies Department, Kolkata, Government of West Bengal for supply of fortified atta. According to the said agreement, the applicant uses the food grains owned by the State Govt. (Food & Supplies Department) for crushing and processing it into flour. The applicant transports the flour (atta) packed in the manner as the state Govt. requires by fortifying the crushed grain to the distributor for distribution through the Public Distribution System (PDS) by the State Govt. (Foods & Supplies Department).

1.3 The applicant receives a fixed monetary consideration for the above service provided to the State Government in form of Crushing Charges, Fortification Cost, Packing Charges, Transportation & Handling Charges and also non-cash consideration of gunny bags on per quintal basis.

1.4 Further, as the applicant is located in the hilly areas of Darjeeling and the milling process is done at the place of business of the applicant, he has to transport the food grains owned by the State Govt. (Foods & Supplies Department) from the Food Corporation of India ('FCI') warehouse to his place of business where milling process is carried out. To transport the food grains in the hilly areas of Darjeeling, the applicant has to incur additional cost which is compensated by the State Govt. (Food & Supplies Department) by way of additional consideration on kilometre basis specified as per the agreement.

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 seeking advance ruling on the following issues:

- Whether additional consideration received by the applicant for transporting food grains in the hill areas of Darjeeling would be considered as 'composite supply' to the principal supply of job work service as per Section 8 of the GST Act and whether exemption under Serial. No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 would be available to the applicant.
- Whether the additional consideration received by the applicant for transporting food grains in the hill areas of Darjeeling would be considered as a separate supply of transportation service and in that event, whether exemption under Serial. No. 18 or under Serial no. 21 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 would be available to the applicant.

1.6 The fact of the case, as it appears from the statement attached by the applicant with the application may be summarized as under:

1.6.1 The applicant has entered into an agreement with the Food and Supplies Department, Government of West Bengal for supply of fortified atta. To carry out the aforesaid activities, the applicant provides job work services by way of milling of wheat into wheat flour along with fortification, to the State Government for distribution of such wheat flour under Public Distribution System. The applicant transports whole, unpolished wheat owned by Food & Supplies Department, Govt. of West Bengal to his place of business for crushing and processing into flour and thereafter returns the fortified flour packed in the manner as the State Govt. requires. The packing material is also supplied by the applicant.

1.6.2 As the place of business of the applicant is located in the hilly areas of Darjeeling, the applicant has to bear additional cost towards transportation of wheat to the Mill and subsequent delivery of fortified flour/atta to the warehouse of the FCI. Such additional cost is compensated by the State Government by way of allowing a rebate which is calculated based on the distance between the Mill and the warehouse. For example, rate of transport rebate is allowed at Rs.24 per Qtl for any distance up to 1st 10 km and thereafter the rebate varies according to the different distance slabs. Such additional cost of transportation rebate, however, is adjusted with the amount agreed to be paid to the applicant on account of 'Transportation & Handling Charges'.

1.6.3 The applicant is of the view that 'Transportation & Handling Charges' includes consideration received for all types of transportation and therefore additional consideration received for transportation of food grains in the hilly area of Darjeeling shall be considered as a composite supply to the principal supply of job work for milling of wheat into wheat flour. Considering the aforesaid valuation method, the value of supply of goods vis-à-vis value of composite supply is found to be much lesser than 25% as specified in Sl. no. 3A of the Notification No. 12/2017-CT(R) dated 28.06.2017. Accordingly, exemption under Sl. no. 3A of the notification No. 12/2017-CT (R) dated 28.06.2017 shall be available to the applicant.

1.6.4 The applicant further draws attention to Serial. No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 which reads as follows:

"Services by way of transportation of goods-

(a) by road except the service of

(i) goods transportation agency;

(ii) a courier agency

(b) by inland waterways”

"goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called"

The applicant has expressed his view that if the additional consideration received by the applicant for transporting food grains in the hilly areas of Darjeeling is not considered as a 'composite supply' to the principal supply of job work service and is considered as a separate supply of transportation service, even then the additional consideration received by the applicant shall be exempted under Serial. No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 since the applicant uses its own vehicle to transport food grains and does not issue any consignment note for the same. The applicant, therefore, cannot be regarded as a 'goods transport agency'.

1.6.5 The applicant submits that even he is considered as a 'goods transport agency', transportation of food grain as undertaken by him shall be exempted vide Serial. No. 21 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 which provides that

“Services provided by a goods transport agency, by way of transport in a goods carriage of

(a) agricultural produce;

(b)

(c)

*(d) milk, salt and **food grain including flour**, pulses and rice;*

1.7 On receipt of the application made in FORM GST ARA-01, the applicant was informed vide memo no. 81/WBAAR/2023 dated 25.04.2023 through an email communication dated 25.04.2023 to appear on 04.05.2023 at 11-30 a.m. In response to that communication, the applicant replied through email dated 03-05-2023 that due to the adverse medical condition of one of his family members, he would not be able to attend the advance ruling hearing scheduled on 04.05.2023. The applicant sought an adjournment for a period spanning of two (2) months. The prayer of the applicant was duly considered and the applicant was allowed an adjournment and the next date of hearing was scheduled on 03.07.2023. But, none appeared on behalf of the applicant on the appointed date. The applicant was allowed further opportunity to appear on 13.07.2023. However, neither the applicant nor his authorised representative could turn up on the date fixed for hearing.

1.8 We are therefore of the view that in spite of allowing sufficient opportunities of being heard, the applicant is not interested to obtain an advance ruling on the issues raised by him vide application made in FORM GST ARA-01. Moreover, in absence of relevant records

which are required to be examined to decide the issue involved in the instant case, this authority is not in a position to give an advance ruling.

1.9 The application is thus disposed of without pronouncement of any ruling.

(Dr. TANISHA DUTTA)
Member
West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member
West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 24th July, 2023

To,
MARIEGOLD INDUSTRIES PRIVATE LIMITED
50B, CAPITAL MARKET, LADENLA ROAD,
DARJEELING, WEST BENGAL, PINCODE-734101

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, Darjeeling Charge, Ajit Mansion, Chowrasta, Mal., Darjeeling-734101
4. The Chief Commissioner, Siliguri Commissionerate, 3rd floor, C.R. Building, Haren Mukherjee Road, Hakimpara, Siliguri, Pincode-734001
5. Office Copy