

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)

BENCH

Mr Brajesh Kumar Singh, Joint Commissioner, CGST & CX
Mr 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	VINIT GLOVES MANUFACTURING PVT LTD
Address	Room No. 7, 4th Floor, Commerce House, 2A, Ganesh Chandra Avenue, Kolkata - 700013
GSTIN	19AABCV1885C1ZA
Case Number	01 of 2022
ARN	AD190222000902L
Date of application	February 07, 2022
Order number and date	25/WBAAR/2021-22 dated 29.03.2022
Applicant's representative heard	Mr. Pramod Kumar Singh, Authorized 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 submits that he has furnished application for refund in FORM GST RFD-01 on 03.01.2022 related to the period September, 2021. The proper officer has issued a show cause notice in FORM GST RFD-08 raising the following issue:

Invoices are not issued in the relevant period for which refund of unutilized input tax credit has been claimed. Invoices have been issued in the month of August, 2021 and therefore time of supply is to be considered in the month of August, 2021.

1.3 As per rule 104 of the Central Goods and Services Tax Rules, 2017 and West Bengal Goods and Services Tax rules, 2017, an application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in FORM GST ARA-01. The applicant has made this application vide ARN AD190222000902L on the common portal on 03.02.2022 but the application is not found in the prescribed format of FORM GST ARA-01.

1.4 The matter has been brought to the notice to the applicant and on 23.02.2022, the applicant has submitted manually paper copy of FORM GST ARA-01.

1.5 The applicant has raised question vide serial number 14 of the application in FORM GST ARA-01 which is submitted manually:

Invoices raised in a particular month and Export Shipment made in subsequent month for which ITC Refund Claim application submitted. The concerned department raises the issues - time of supply will be considered in the month when Invoices issued not in the month when shipment made.

1.6 In addition to the fact that the applicant has not made the application in FORM GST ARA-01 on the common portal, the first proviso to sub-section (2) of section 98 of the GST Act speaks 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.

1.7 During the course of hearing, the authorised representative of the applicant submits that the proper officer has already decided the issue and disposed of the application for refund.

1.8 The instant application is, therefore, found liable for rejection. The aforesaid observation has been brought to the notice to the authorised representative of the applicant in terms of provision laid down in sub-section (2) of section 98 of the Act ibid who has admitted the same.

The application is, therefore, rejected in terms of sub-section (2) of section 98 of the GST Act.

(BRAJESH KUMAR SINGH)
Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member

West Bengal Authority for Advance Ruling