



**TELANGANA STATE APPELLATE AUTHORITY FOR ADVANCE RULING
(Goods and Services Tax)
1st Floor, Commercial Taxes Complex, M.J. Road, Nampally,
Hyderabad 500 001**

AAAR.COM/08/2022

Dated:30.12.2022

Order-in-Appeal No. AAAR/14/2022

*(Passed under Section 101 (1) of the Telangana Goods and Services Tax Act,
2017)*

Preamble

1. In terms of Section 102 of the Telangana Goods and Services Tax Act, 2017 (TGST Act, 2017 or the Act), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the applicant 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.
2. Under Section 103 (1) of the Act, this advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act 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.
3. Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Under Section 104 (1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-Section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.

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Sub:- GST – Appeal filed by M/s The Singareni Collieries Company Limited, Kothagudem, Bhadradri Kothagudem, Telangana – 507 101, under Section 100 (1) of TGST Act, 2017 against Advance Ruling TSAAR Order No.30/2022, dated 07.06.2022 passed by the Telangana State Authority for Advance Ruling - Order-in-Appeal passed – Regarding.

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The applicant, M/s Singareni Collieries Company Ltd, Head office, Kothagudem Collieries, Kothagudem, Badradri, Telangana 507 101 (GST NO. 36AAACT8873FIZI) (hereinafter referred to as M/s Singareni or the applicant) are mainly into extraction of coal. The applicant is a government owned coal mining company. The company is jointly owned by the Government of Telangana and Government of India. They operate mines in the state of Telangana. They have coal mining projects in various places. M/s. Singareni Collieries Company Limited is entering into contracts with a host of vendors/suppliers for extraction of coal. Under rule (3) of State Forest produce transit rules they are liable to pay a certain amount to move the mined coal through the forest area as permit fee at the rate of Rs. 10 per ton of coal transported. The applicant is desirous of ascertaining whether GST is attracted on reverse charge on this amount paid to the Forest department.

2. The applicant filed an appeal before the lower authority seeking advance ruling on the following questions.

- (1) Whether, in the facts and circumstances of the case, the Applicant is obliged to pay GST on the forest permit fee paid by it under reverse charge mechanism?
- (2) Alternatively, if GST is payable on forest permit fee paid by the Applicant, can services received by the Applicant be classifiable under heading 9973 of Notification No. 11/2017 Central Tax (Rate) dated 28th June, 2017 and thus be exigible to a lower rate of tax for the period prior to 01-01-2019?

BRIEF FACTS:

3. After due Process of Law, the lower authority, vide its orders No. 30/2022, dt.07.06.2022, has given ruling as under:

Question	Ruling
1. Whether, in the facts and circumstances of the case, the Applicant is obliged to pay GST on the forest permit fee paid by it under reverse charge mechanism?	Yes, GST is payable on forest permit fee on reverse charge basis
2. Alternatively, if GST is payable on forest permit fee paid by the Applicant, can services received by the Applicant be classifiable under heading 9973 of Notification No. 11/2017 Central Tax (Rate) dated 28th June, 2017 and thus be exigible to a lower rate of tax for the period prior to 01-01-2019?	No, The supply is to be classified as tolerating to do an act as discussed above and is to be treated as service as per entry 5(e) of the schedule II to the CGST Act, 2017

4. Aggrieved by the above ruling, the applicant filed the present appeal before this Appellant Authority on the following question.

- (1) Whether the Statutory payment made to forest department as per Rule (3) of State forest produce transit rules, can be treated as supply?
- (2) Alternatively, if GST is payable on forest permit fee paid by the Applicant, can services received by the Applicant be classifiable under heading 9973 of Notification No. 11/2017 Central Tax (Rate) dated 28th June, 2017 and thus be exigible to a lower rate of tax for the period prior to 01-01-2019?

WHETHER THE APPEAL IS FILED IN TIME:

6. The applicant has informed in this application filed before this authority that the date of communication of advance ruling is 07.06.2022. The application is file on 05.07.2022, Hence, the application is found to be filed in time i.e. within thirty days from the date of communication of advance ruling.

PERSONAL HEARING:

7. A personal hearing was held on 18.08.2022. Sri Ananthanarayanan, Authorised Representative and CA and Sri Jayaram, Authorised Representative and appeared for the personal hearing during the course of which the Id, Advocate reiterated the submissions made vide their written submissions dated. 05.07.2022.

DISCUSSIONS & FINDINGS :

8. The contention of the applicant is verified and the conclusions are arrived as under:

For the supply of permits in triplicate the Telangana Forest department charges an amount of Rs.10.00/Tonne/Cmt for Major minerals/Minor minerals/Granite under Rule 5(5) of Andhra Pradesh Forest Produce Transit Rules, 1970.

The purpose for which the permit charges are collected is mentioned in Para 2 of G.O Ms No 35 Environment forests science & Technology (FOR.I) Department dated 06-02-2010, which is extracted hereunder:

*“2. Principal chief conservator of Forests , Andhra Pradesh , Hyderabad in the reference 2nd cited above , has stated that **to keep a watch on the mining activity and also to assess the quantity and type of mineral being quarried ,the forest officials have to carry out survey and also keep constant watch on the movement of the produce.** In view of the increased workload and staff and to augment the forest revenue commensurate with the cost of the product mined the rates of the permits are being proposed for enhancement.....”*

As per Rule 3 of Andhra Pradesh Forest Produce Transit Rules, 1970 No forest produce shall be moved into or from or within the State by land or water, unless such produce is accompanied by a permit:

“3. *No forest produce shall be moved into or from or within the State by land or water, unless such produce is accompanied by a permit there for issued under Rule 5 and produced for check immediately on demand:*

Provided that where the forest produce is imported into the State from any other State it is enough if such produce is accompanied by a permit issued by the Government of the State from where such produce is imported and the said permit shall be valid only for the transport of such produce, such quantity and the destination specified therein.

[Provided further that, if any Forest Produce is imported into the State from any other State where such produce is exempted from the application of Transit Rules in that State, and if such produce is accompanied by any documents indicating the origin of the produce, such documents will be treated as valid for the transport of such produce and such quantity to the destination specified therein].”

In view of the above, the permit charges are charged by forest department to supply permits, these permits are essential for the applicant to move coal mined by them to other places.

The forest department collects permit charges and issues permits. This permit enables the applicant to move their mined produce, i.e., coal to other places. Therefore the charges collected are nothing but amount collected by forest department to issue permission to transport the coal.

Services proved by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Same was the position under Service Tax regime also with effect from 1st April, 2016. Tax is required to be paid by the business entities on such services under reverse charge. Entry 29 of Notification No:11/2017 reads as under :

Public administration and other services provided to the community as a whole; compulsory social security services.

As per the annexure to the Notification No: 11/2017 Scheme of classification of services, Entry 564 reads as under:

999113 Public administrative services related to the more efficient operation of business.

Further in the explanatory notes to the Classification, 999113 includes :

iii. public administrative services related to regulations governing forest operations, issuing of tree-felling licences, rationalization of forest resources, exploitation, reforestation work, operation and support

of game preserves and fish hatcheries, development and monitoring of regulations, including the licensing of fishing and hunting.

- iv. administrative services provided by government offices, bureaux and programme units concerning solid fuel, including regulations concerning their exploitation or conservation; petroleum and natural gas; mineral fuel; nuclear and non-commercial fuel, including such fuels as alcohol, wood and wood waste, etc.**

Therefore the supply of permits by forest department is taxable @ 9% SGST and CGST each under SAC code 9991 (Public administration and other services provided to the community as a whole; compulsory social security services) falling under Entry 29 to Notification No: 11/2017 - CT(R), Dt: 28-06-2017. More specifically, the said services fall under SAC 999113 (Public administrative services related to the more efficient operation of business). Hence, if the supplier i.e., Forest department is not registered under provisions of GST, the applicant shall pay tax on reverse charge basis as per Entry 5 of Notification No. 13/2017- central Tax (Rate) dated 28-06-2017.

The applicant also contended that the Notification no 12/2017 exempts any service provided by central government /State government in respect of functions entrusted to Panchayat under Article 243G of the constitution till the period 26-07-2018. The applicant stated that the service provided by the state government i.e. forest department is related to social forestry and farm forestry which is mentioned at entry no 6 of Eleventh schedule of the constitution, hence they are eligible for exemption till 26-07-2018.

The contention is examined, Social forestry is the management of forests for the benefit of local communities. Social forestry includes a range of activities associated with forest management, protection, and afforestation with the objective of rural, environmental, and social well-being.

The permit charges collected by forest department is used by the forest officials keep a watch on the mining activity and also to assess the quantity and type of mineral being quarried to carry out survey and also keep constant watch on the movement of the produce , and is not related to Social forestry or farm forestry. Hence , the contention of the applicant that the service provided is in relation to Farm Forestry and social forestry and is exempted from tax as per notification no 12/2017 is untenable.

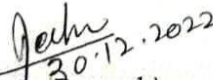
9. In the light of the foregoing, we pass the following:

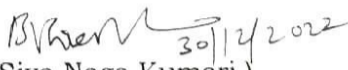
ORDER

Question	Ruling
1. Whether the Statutory payment made to forest department as per Rule (3) of State forest produce transit rules, can be treated as supply?	Yes, it is treated as a supply of services and GST is payable on forest permit fee on reverse charge basis.

<p>1. Alternatively, if GST is payable on forest permit fee paid by the Applicant, can services received by the Applicant be classifiable under heading 9973 of Notification No. 11/2017 Central Tax (Rate) dated 28th June, 2017 and thus be exigible to a lower rate of tax for the period prior to 01-01-2019?</p>	<p>No, The supply is to be classified as Public Administrative Services falling under Entry 29 of Notification No: 11/2017 Dt: 28-06-2017, which is taxable @ 18%, for the entire period.</p>
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The order passed by the lower authority is partially modified as discussed. The subject appeal is disposed accordingly.


 (Neetu Prasad)
 Commissioner of Commercial Taxes
 Telangana State


 (B.V.Siva Naga Kumari)
 Chief Commissioner Central Tax
 Hyderabad Zone

To
 M/s The Singareni Collieries
 Company Limited, Head office,
 Kothagudem Collieries,
 Kothagudem, Bhadradri Kothagudem,
 Telangana – 507 101.

Copy submitted to:

1. The Telangana State Authority for Advance Ruling, CT Complex, MJ Road, Nampally, Hyderabad- 500 001.
2. Chief Commissioner of Central Tax & Customs, Hyderabad Zone – for information and for forwarding copies of the order to the concerned / jurisdictional officer of Central tax.
3. Commissioner of State Tax, Telangana State – for information and for forwarding copies of the order to the concerned / jurisdictional officer of State tax.