

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH

Behind Rajbhawan, Civil Lines, Raipur (C.G.) 492001

Email ID – gst.aar-cg@gov.in

PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are :

1. Shri S.K.Buxy
Joint Commissioner,
O/o Commissioner, State Tax
Chhattisgarh, Raipur
2. Shri Rajesh Kumar Singh,
Joint Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur

Sub:- GST Act, 2017 – Advance Ruling U/s 98 – Regarding Determination of tax liability to pay tax on man power.

Read:- Application dated 05.04.2018 from M/s Utility Powertech Ltd., NTPC Plant Area, Seepat, Bilaspur, C.G. [GSTIN: 22AAACU3458P1Z1]

PROCEEDINGS

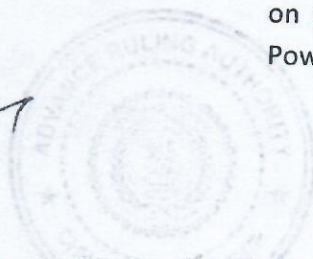
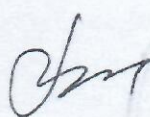
[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/02/2018

Raipur, Dated 14.06.2018

The Applicant M/s Utility Powertech Ltd. Sipat Bilaspur, having GSTIN 22AAACU3458P1Z1, engaged in providing manpower supply services to NTPC BHEL Power Projects Pvt. Ltd. (NBPPL), Mannavaram in Andhra Pradesh, (GST No. 37AACCN9505A1ZQ) has filed the application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017, seeking advance ruling on the following points :-

- a. Whether the applicant is required to charge IGST or CGST and SGST on the manpower supply services provided to M/s NTPC BHEL Power Projects Pvt Ltd. (NBPPL), Mannavaram in Andhra Pradesh.



- b. Whether such transaction will be categorized as an intrastate or interstate transaction?
- c. If the applicant charge IGST on such transaction, considering the transaction as interstate, will the IGST charged, be available as input tax credit to M/s NBPPL against their output tax liability subject to Section 17(5).

2. Facts of the case:-

- I. The applicant M/s Utility Powertech Ltd., Sipat, Bilaspur, (C.G.) having multiple registrations under GST in various States has been awarded a contract for manpower supply at Mannavaram (Andhra Pradesh) by M/s NTPC BHEL Power Project Pvt. Ltd., [NBPPL], Mannavaram (Andhra Pradesh).
- II. M/s Utility Powertech Ltd., C.G. procures manpower for NTPC Power Project, Mannavaram (A.P.) and deposes such manpower at Mannavaram.
- III. Thus M/s Utility Powertech Ltd., Sipat, Bilaspur(C.G.) is the supplier of services and M/s NBPPL Mannavaram (A.P.) is the recipient of such services.

3. Contention of the applicant:-

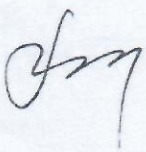
Since the applicant is registered at Bilaspur (C.G.) and their place of supply is at a place outside the State of Chhattisgarh, the applicant holds this transaction as interstate and intends to issue invoices regarding supply of manpower services to M/s NBPPL, Mannavaram (A.P.) by charging IGST on the same.

4. Personal Hearing: -In keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant. Shri Mahavir S. Jain, CA and Shri Naresh P Nahar CA authorized by the Resident Manager of the applicant, M/s Utility Powertech Ltd., Sipat, Bilaspur, (C.G.), appeared before us for hearing on 24.5.2018 and reiterated their above contentions.

5. The legal position, Analysis and Discussion:-

The provisions for implementing the CGST Act and CGGST Act, 2017 are similar.

The Applicant, based at Seepat, Bilaspur, (C.G.) has been awarded a contract for manpower supply at Mannavaram (Andhra Pradesh) by M/s NTPC BHEL Power Project Pvt. Ltd., Mannavaram (Andhra Pradesh). The applicant has submitted that considering such supply of manpower service as interstate transaction, it wants to



issue invoices charging IGST, upon NBPPL and wants to have an advance ruling as to whether the IGST so charged on such invoices issued by them will be available as ITC, to M/s NBPPL against their output liability.

Now we sequentially discuss the provisions that are applicable in the present case:-

U/s. 96 of CGGST Act, 2017:-Authority for advance ruling-

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

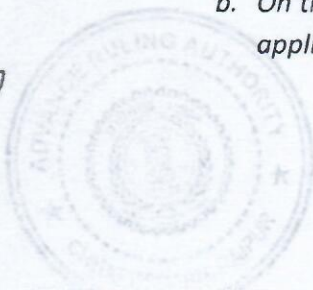
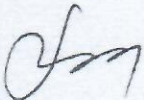
U/s 97(2) of CGGST Act, 2017:-

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.*

U/s 103 of CGGST Act, 2017:- Applicability of advance ruling –

- 1. The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter 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.*



5.1 The applicant has sought advance ruling regarding:-

- (i) Labour supply service to the firm situated in Andhra Pradesh and considering it as interstate transaction wants to charge IGST on invoices issued to NTPC BHEL Power Project Pvt. Ltd., Mannavaram (Andhra Pradesh).
- (ii) Availability of Input Tax Credit (ITC) to NTPC BHEL Power Project Pvt. Ltd., Mannavaram (Andhra Pradesh) regarding IGST charged by the applicant.

5.2 Thus the applicant has sought advance ruling on determination of tax liability to pay tax on manpower service which in fact is very much directly linked to place of supply in the instant case. Further advance ruling has also been sought by the applicant on the availability of ITC to M/s NTPC BHEL Power Project Pvt. Ltd., Mannavaram (Andhra Pradesh), which is registered in Andhra Pradesh on the said tax liability at Andhra Pradesh, i.e. at a place outside the State of Chhattisgarh.

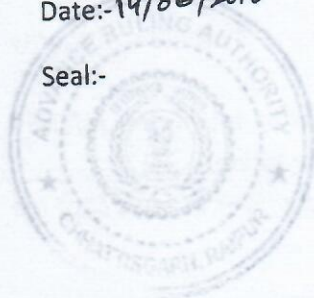
5.3 In terms of section 96, 103(1) (a) and 103 (1) (b) of CGGST Act, 2017 Authority for Advance Ruling, Chhattisgarh is not the proper authority to pronounce the ruling regarding the availability or otherwise of ITC to a firm which is registered and situated at a place outside the State of Chhattisgarh. Similarly, section 97(2)(c) of CGST Act, 2017 stipulates that ruling as regards time and value of supply of goods or services or both, can only be raised before AAR for advance ruling. It is precisely for this very reason also, that determination of place of supply has been kept out of the purview of Authority for Advance Ruling (AAR) stipulated under the provisions of section 97(2) of the CGGST Act, 2017.

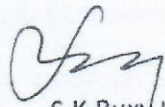
In view of the above deliberations and discussions, we come to the considered conclusion that the application dated 05.04.2018 filed by M/s Utility Powertech Ltd., NTPC Plant Area, Seepat, Bilaspur C.G. [GSTIN: 22AAACU3458P1Z1], seeking advance ruling on the points mentioned above merits rejection, being out of the purview of matters or questions specified in sub-section (2) of section 97 of CGGST Act, 2017 read with section 96, 103(1) (a) & 103 (1) (b) of CGGST Act, 2017.

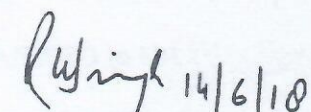
Place:- Raipur

Date:- 14/06/2018

Seal:-




S.K. Buxy 14618
(Member)


Rajesh Kumar Singh
(Member)

Copy to:-

1. Applicant,
2. The Commissioner, (CGGST)
3. The Principal Commissioner, (CGST)
4. The jurisdictional officer, korba Circle - 1.