

**BEFORE THE AUTHORITY FOR ADVANCE
RULINGS FOR THE STATE OF UTTARAKHAND
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)

श्री विपिन चन्द्र (सदस्य)

Shri Amit Gupta (Member)

श्री अमित गुप्ता (सदस्य)

The 03rd day of December, 2018

Ruling No-12/2018-19

अग्रिम विनिर्णय संख्या.

In

Application No: 10/2018-19

आवेदन संख्या. 10/2018-19

1	Applicant आवेदक	M/s Sharda Timber, Khasra No. 115, Min Wake Mōja, Tirmal Patti, Jaspur, U.S. Nagar (UK)-244712.
2	Jurisdictional Officer अधिकारिता अधिकारी	Deputy Commissioner (Central Tax), Range-IV, Kashipur, Uttarakhand
3	Present for the Applicant आवेदक की ओर से उपस्थित	Shri Rajendra Jaiswal
4	Concerned Officer	Mrs. Preeti Manral, DC- SGST
5	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	Nil
6	Date of receipt of application आवेदन प्राप्ति की तिथि	05.09.2018
7	Date of Personal Hearing सुनवाई की तिथि	30.10.2018

Note : Under Section. 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

नोट : इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

1. This is an application under Sub-Section (1) of Section 97 of the CGST /SGST Act, 2017 (herein after to be referred as "Act") and the rules made thereunder filed by M/s Sharda Timber, Khasra No. 115, Min Wake Moja, Tirmal Patti, Jaspur, U.S. Nagar (UK)-244712, seeking an advance ruling on the question :

"Whether the commodity of Eucalyptus/Polar Wood Waste in Logs having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm is covered under HSN 4401 and chargeable to tax under Uttarakhand State GST @ 2.5% and under CGST @2.5%.

2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
3. As per the said subsection (2) of Section 97 of the Act *ibid* advance ruling can be sought by an applicant 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 the 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

In the present case, applicant has sought advance ruling in respect of *leviability* of GST, if any, on the

- (a) *Classification of Eucalyptus /Poplar Wood Waste in Logs having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm being covered under HSN 4401.*
- (b) *Whether the commodity of Eucalyptus /Poplar Wood Waste in Logs having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm is chargeable to tax under Uttarakhand State GST @2.5% and CGST @2.5%.*

Therefore, with the instant application seeking *classification of goods and determination of the liability to pay tax on such goods*, in terms of Section 97(2)(a) & (e) of CGST/SGST Act, 2017, the present application is hereby admitted.

4. Accordingly opportunity of personal hearing was granted to the applicant on 30.10.2018. Shri Om Kumar, Advocate and Shri Jai Ram Srivastava, Advocate appeared for personal hearing on the said date and submitted documents describing therein exact nature of work being undertaken. Mrs. Preeti Manral, Deputy Commissioner, SGST-Dehradun appointed as concerned officer by the competent authority of State GST was also present during the hearing proceedings.
5. In the present application, applicant has requested for advance ruling on :

(a) Classification of Eucalyptus / Poplar Wood Waste in Logs having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm being covered under HSN 4401.

(b) Whether the commodity of Eucalyptus / Poplar Wood Waste in Logs having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm is chargeable to tax under Uttarakhand State GST @2.5% and CGST @2.5%.

6. Before going into the details of the instant question on which the ruling has been sought by the applicant, it is important to understand the GST Tariff, for which the relevant portion going under the heading of "Adoption of Customs Tariff for classification of goods [R.K. Jain's GST Tariff Manual 4th Edition 2018-19]" is quoted as under :

".....to avoid classification disputes, notifications issued by Government indicate that Customs Tariff has been adopted for descriptive classification of goods under GST. The Section Notes, Chapter Notes and Rules of interpretation of Customs Tariff have also been adopted....."

6.1. Thus, from the above, it evolves that to decide upon the issue of classifying Eucalyptus / Poplar Wood Waste in Logs (having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm) under HSN 4401, and thus upon the tax rate of 5%, it is important to go through Chapter 4401 of the Customs Tariff.

6.2. The relevant portion of the Customs Tariff Manual covering the Tariff Item and the description of the goods therein is mentioned as under :

Tariff Item (1)	Description of goods (2)	Unit (3)
4401	Fuel Wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap. Whether or not agglomerated in logs, briquettes, pellets or similar forms	
	- Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms :	
	-- Coniferous :	
4401 11	--- In logs.....	mt
4401 11 10	--- Other.....	mt
4401 11 90	-- Non-coniferous :	
4401 12	---In logs.....	mt
4401 12 10	--- Other.....	mt
4401 12 90	- Wood in chips or particles :	
	--Coniferous.....	mt
4401 21 00	-- Non-coniferous.....	mt
4401 22 00	- Sawdust and wood waste and scrap, agglomerated in logs, briquettes, pellets or similar forms :	
4401 31 00	-- Wood pellets.....	mt
4401 40 00	-Sawdust and wood waste and scrap, not agglomerated.....	mt

6.3. Further, for the sake of better understanding of the issue in hand, the relevant portion from the Chapter 44 (Wood and articles of wood; wood charcoal) of the GST Tariff Manual, is reproduced as under :

Chapter/ Heading/ Sub-heading/	Description of goods	GST Rates			
		Central CGST	State/UT SGST/	Inter- State	Compen- sation

Tariff Item			UTGST	IGST	Cess
(1)	(2)	(3)	(4)	(5)	(6)
4401	Firewood or fuel wood	Nil	Nil	Nil	Nil
4401	Wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms	2.5%	2.5%	5%	Nil
4403	Wood in the rough	9%	9%	18%	Nil

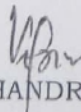
6.4. Thus, though the advance ruling has been sought in respect of 'Classification of Eucalyptus / Poplar Wood Waste in Logs having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm to be made under HSN 4401', on perusal of the description of goods as given in the column (2) of both the Customs Tariff and the GST Tariff, it can be clearly seen that nowhere does the description of goods as against HSN 4401 mention anything or even a passing reference about the length and girth of the **Wood Waste in Logs**.

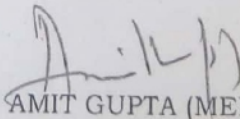
Further, it is also pertinent to note here that the HSN Code - 4403 reads as - "wood in the rough" and the woods falling under the said description attracts GST @ 18%.

Thus, it can be clearly seen here that though the applicant is seeking advance ruling in respect of Eucalyptus / Poplar Woods Waste in Logs having length of 30 cm to 200 cm and Girth of approx. 10 cm to 60 cm, so as to classify the same under Chapter heading 4401 (attracting GST @ 5% in respect of Wood in chips or particles), the applicant has failed to correctly frame the question to which the classification is sought from the authority, we find that since length and girth are not criteria for classification of wood under Chapter 44 or more specific 4401, therefore, the answer is given in negative to the question which the applicant has sought.

RULING

In view of the above, the answer is in negative and Eucalyptus / Poplar Woods Waste in logs having length of 30 cm to 200 cm and girth of approx. 10 cm to 60 cm does not fall under HSN 4401 of the GST Tariff Act, and therefore, not chargeable to GST @ 5% [CGST @2.5% and SGST @2.5%].


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX, UTTARAKHAND

F.NO. : 10/2018-19 / STATE TAX / UKD / GST / SEC 97 / 2018-19 / DDY ⁶⁰⁸³ Dated : 03/12/18 .

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for review.
2. The Commissioner, CGST, Commissionerate, Dehradun for review.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for review.
4. The Deputy Commissioner, CGST Division, Kashipur for review.
5. The Deputy Commissioner, SGST, Dehradun for review.
6. The Concerned officer, ~~SGST, Dehradun~~.
7. Guard File.