

**GUJARAT AUTHORITY FOR ADVANCE RULING,**  
GOODS AND SERVICES TAX,  
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,  
AHMEDABAD – 380 009.



ADVANCE RULING NO. GUJ/GAAR/R/82/2020  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/55)

Date: 17.09.2020

Name and address of the applicant	:	M/s. Shree Arbuda Transport Plot No.51, Office No.6, Kesar Arcade, 1, Gandhidham, Kachchh-370201.
GSTIN of the applicant	:	24ADUFS5459G1ZH
Date of application	:	13.10.2019.
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) Classification of any goods or services or both. (b) Applicability of a notification issued under the provisions of this Act. (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.
Date of Personal Hearing	:	17.08.2020 (through video conferencing)
Present for the applicant	:	Shri Hemen Furiya, C.A.

### **BRIEF FACTS**

The applicant M/s. Shree Arbuda Transport located at Plot No.51, Office No.6, Kesar Arcade, 1, Gandhidham, Kachchh-370201 is a Gandhidham based partnership firm intending to engage in services like Transportation and logistics services, Clearing and forwarding services and other allied services for import and export of cargo and for coastal movements. The applicant owns a fleet of commercial vehicles(trailers) and also hires necessary vehicles from market as well. The applicant has submitted that they are in process of entering into an agreement with a specific client engaged in the business of Export of Agricultural produce(Rice). Such services to be provided by the applicant comprise of the following broad categories:

- (1) Clearing and Forwarding Agency Charge(CHA License is in the name of a sister concern M/s. SRS Cargo).
- (2) Providing labour for loading of cargo into containers.
- (3) Allied services for export and import cargo like:
  - Lift On/Lift off charges to CFS/Empty Container Yard.
  - Survey Tally formality for goods loaded in the container.
  - Obtaining Custom Permission for Self-Sealing.
- (4) Transportation of cargo/containers from factory/warehouse to CFS/port:
  - Transportation of Agricultural products: like Rice, tea etc.
  - Transportation of empty container from CFS/Empty container yard to party warehouses in various locations.

- (5) Obtaining custom related certificates/clearing: like Bill of Lading, Health Certificate, Non GMO, Pytho etc. with complete documentation for export shipment.

**2.** The applicant wishes to quote a single consolidated rate(per container) towards the above bundle of services, hence they are seeking clarification as to the classification of services, applicable HSN and rate of GST to be charged. The applicant has asked the following question seeking Advance Ruling on the same:

- “
- (1) *If we want to provide all above services for a “Single consolidated Rate” as a package, whether such supply would be treated as “Mixed supply” as per the provisions of Section 2(74) of the CGST Act, 2017, since the services are not naturally bundled and are capable of being provided independently? Or it shall be treated as “Composite supply”?*
- (2) *What shall be the applicable HSN code and corresponding GST Rate for such bundle of services?(Highest Rate of Service in the bundle is 18%).*
- (3) *Whether the firm shall be eligible to avail ITC on the following:*  
*-Regarding GST paid on Commercial vehicles & Repair & maintenance cost of such vehicles used for transportation of goods/containers.*  
*-ITC on inward supply from CFS/Port/Labour contractor etc. related to such packaged outward supply.*
- (4) *Whether the Exporter client shall be eligible to claim refund of the GST paid by them on our outward supply invoices?”*

**3.** The applicant has submitted that they are going to be engaged in providing service like air freight forwarding and shipping service, packaging and transportation services (domestic), truck transport service and bus transport etc. The detailed description of the services provided by the applicant, as relevant for this view point is summarized below:

- a. The applicant is going to be engaged in providing goods transport agency services. In order to provide such services, the applicant either uses its own motor vehicles or sometimes hires commercial vehicles as well and transports variety of goods. The subject GTA service is liable to tax in few cases whereby the applicant discharges 12% GST on forward basis and avails input tax credit of all inputs, capital goods and input services as per the GST provisions and in case of transport of products like milk or agriculture produce, the GTA services attract NIL rate of GST.
- b. Apart from the above referred services, the applicant is also going to be engaged in providing cargo handling services, clearing and forwarding agency services, coastal transportation services for different types of local, import and export related cargo. The cargo usually pertains to agricultural or non-agricultural goods. The applicant discharges GST depending upon the applicability of GST on such services provided in respect of subject products.
- c. The applicant is entering into an agreement with a leading exporter of rice and in terms of the agreement, the applicant is supposed to provide different types of services as below:
- i. Clearing of cargo. The applicant will undertake this activity with the help of the CHA services to be provided by applicant’s sister concern.
- ii. Transportation of cargo from the factory to the desired location vis-a-vis CFS/Port etc.
- iii. Loading and unloading the cargo into containers with the help of the labourers and equipments.

- iv. Transportation of empty container from CFS/empty container yard to client's warehouse at various locations.
- v. Other allied services like:
  - life on/lift off charges to CFS/empty container yard.
  - survey tally formality for goods loaded in the container.
  - obtaining custom permission for self-sealing.
- vi. Obtaining custom related certificates/clearings such as bill of lading, health certificate, Non GMO, python, etc. with complete documentation for export shipment.

**4.** The applicant has further submitted that in terms of the agreement, a single rate is to be fixed based on per container for providing all types of above mentioned varied services. The agreement is to stipulate no separate rate for the provision of the subject individual services. Out of all the subject services in the agreement, few services are liable to tax and the remaining few are exempt under GST, for instance, the service pertaining to clearing and forwarding of cargo is liable to tax at rate of 18% in view of entry no.11(2) of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017, whereas services provided by a goods transport agency, by way of transport in a goods carriage of agricultural produce is liable to NIL rate of tax in terms of Sr.No.21 of the Notification No.12/2017-Central Tax(Rate) dated 28.06.2017 and so on.

**5.** The applicant has submitted his view-point in respect of Question-1 raised by him seeking Advance Ruling, as under:

(1)If we want to provide all above services for a “Single consolidated Rate” as a package, whether such supply would be treated as “Mixed supply” as per the provisions of Section 2(74) of the CGST Act, 2017, since the services are not naturally bundled and are capable of being provided independently? Or it shall be treated as “Composite supply”?

Section 2(30) of the CGST Act, 2017 defines ‘composite supply’ as under:

*2(30) “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;*

*Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;*

(emphasis supplied)

Section 2(90) of the CGST Act, 2017 defines ‘Principal supply’ as under:

*2(90) “principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;*

**5.1** ‘Principal supply’ means supply of goods or service which is the predominant element of a composite supply to which the other supplies are only ancillary. Thus, a plain reading of composite supply and principal supply indicates that a composite supply has only one principal supply and if a particular contract has more than one principal supply, the contract will cease to be a composite supply.

**5.2** Mixed supply is defined under Section 2(74) of the CGST Act, as under:

*(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.*

*Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a*

*mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;*

**5.3** Thus for a supply to qualify as ‘mixed supply’, a crucial condition is that it should be supplied for a single price. In the present case, the supply of subject services in the agreement is made for a single price. The United Kingdom Upper Tribunal (UT) in the case of Honorable Society of Middle Temple v/s. Revenue and Customs Commissioners(2013) UKUT 0250(TCC) gave certain indicative guidelines to determine whether two or more supplies constitute a ‘single supply’ (composite supply) or ‘multiple supplies’(independent supplies) in context of the UK law. The relevant extract of the decision is extracted hereunder for ready reference:

“60....

- (1) Every supply must normally be regarded as distinct and independent, although a supply which comprises a single transaction from an economic point of view should not be artificially split.*
- (2) The essential features or characteristic elements of the transaction must be examined in order to determine whether, from the point of view of a typical consumer, the supplies constitute several distinct principal supplies or a single economic supply.*
- (3) There is no absolute rule and all the circumstances must be considered in every transaction.*
- (4) Formally distinct services, which could be supplied separately, must be considered to be a single transaction if they are not independent.*
- (5) There is a single supply where two or more elements are so closely linked that they form a single, indivisible economic supply which it would be artificial to split.*
- (6) In order for different elements to form a single economic supply which it would be artificial to split, they must, from the point of view of a typical consumer, be equally inseparable and indispensable.*
- (7) The fact that, in other circumstances, the different elements can be or are supplied separately by a third party is irrelevant.*
- (8) There is also a single supply where one or more elements are to be regarded as constituting the principal services, while one or more elements are to be regarded as ancillary services which share the tax treatment of the principal element.*
- (9) A service must be regarded as ancillary if it does not constitute for the customer an aim in itself, but is a means of better enjoying the principal service supplied.*
- (10) The ability of the customer to choose whether or not to be supplied with an element is an important factor in determining whether there is a single supply or several independent supplies, although it is not decisive, and there must be a genuine freedom to choose which reflects the economic reality of the arrangements between the parties.*
- (11) Separate invoicing and pricing, if it reflects the interests of the parties, support the view that the elements are independent supplies, without being decisive.*
- (12) A single supply consisting of several elements is not automatically similar to the supply of those elements separately and so different tax treatment does not necessarily offend the principle of fiscal neutrality.*

**5.4** The applicant has further stated that in the present case, the following points are noteworthy:

Value of the constituent: The applicant gives a consolidated quote to the customer for each supply of service.

Intention of the supplier and recipient: The customer may choose to avail the subject services as per their own requirements. In other words, the customers may choose to procure any combination of supply of service from the applicant. This could be considered as a test as it would reveal what the applicant intends to supply, and what the recipient intends to receive vis-a-vis though can be supplied together. Such element also explains the economic rationale behind the supply.

Description on the invoice: The applicant has to raise fixed rated consolidated invoice for supply of services and not to provide an item-wise/service wise bifurcation.

**5.5** The applicant has stated that the above facts indicate that the intention of the applicant is to make supply of services for a single price under the agreement. No individual service is provided in the present case. Further, the rates for individual services cannot be estimated as well; that in their opinion, the supply of subject services should be treated as mixed supply whereby various services which are not naturally bundled are provided for a single rate; that the Advance Ruling Authority, Maharashtra in the case of M/s. Lindstorm Services India private limited, 2018 (12) TMI 1275 – AAR, MAHARASHTRA, decided the question of what would be the nature of the supply vis-a-vis composite or mixed supply in case of renting of work wear along with other services such as transportation, weekly washing etc. when provided for a single consideration. The AAR, Maharashtra ruled that the supply of renting of work wear along with other services such as transportation, weekly washing etc. for a single consideration is a mixed supply under Section 2(74) of the CGST Act by observing as follows:

*“Mixed supply means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.*

*Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;*

Thus, in order to identify, if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be mixed supply. Further, we find that the customer pays single price under single invoice for the package of services. We have already ruled out the possibility of the present transaction being a composite supply, and the fall out is that the transaction qualifies as a mixed supply as defined in section 2(74) of the GST Act”.

(emphasis supplied)

## **5.6** Applicable Tax Rate for Mixed supply

The applicant has submitted that in terms of Section 8(b) of the CGST Act, in case of mixed supply, the supply of two or more supplies shall be treated as a supply of that particular supply that attracts the highest tax; that as provided in facts above, out of all the services in question, few services are taxable whereas few are exempt under GST; that in cases, where all the supplies are liable to GST as the same rate or at differential rate, there is no problem and output tax due can be easily calculated; that, in the present case, there is a mixture of taxable and exempt supply which could lead to problem; that definition of mixed supplies provides for the phrase “two or more individual supplies of goods or services, or any combination thereof”; that unlike the definition of composite supply, which includes only ‘taxable supplies’, the definition of mixed supply has wide scope as it means to include supplies vis-a-vis taxable or exempt both; that in view of the above, they are of the view that the subject services including taxable as well as exempt supplies would qualify as mixed supply in terms of Section 2(74) of the CGST Act.

**6.** The applicant has submitted his view point in respect of Question 2 raised by him seeking Advance Ruling, as under:

The applicant has submitted that the rate of tax of the subject supply of service would be of the supply which attracts the highest rate of tax; that the subject supply would be supply of service as one of the constituent supply under the agreement which attracts highest rate of tax is clearing and forwarding service vis-a-vis 18% of GST; that the entire supply would be classified as supply of service liable to tax at the rate of 18%; that 18% is the standard maximum rate of tax applicable to any supply of service under GST; that the subject supply includes other services too which individually attracts 18% rate of GST; that, the remaining list of services need not be checked for determining the highest rate of tax and accordingly determining the supply; that in the present case, the mixed supply, involving supply of a service liable to tax at higher rate than any other constituent supply of service as involved would qualify as supply of services and accordingly, the provisions relating to time of supply of services would be applicable.

Issuance of invoice:

Section 31(2) of the CGST Act(relevant extract) reads as under:

*“31. (2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed.”*

**6.1** The applicant has submitted that in view of the above referred provision and Rule 47 of the CGST Rules, 2017, a registered person supplying taxable services shall issue a tax invoice within 30 days from the date of supply of the service and that in terms of Rule 46 of the CGST Rules, 2017, a registered person issuing tax invoice under Section 31 must mandatorily contain the following details:

- (1) Name, address and Goods and Services Tax Identification Number of the supplier;*
- (2) A consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash and slash or any combination thereof, **unique for a financial year;***
- (3) Date of its issue;*
- (4) (a) If registered, name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient; (b) If unregistered, name and address of the recipient and the address of delivery, along with the name of the State and its code and where the value of the taxable supply is fifty thousand rupees or more;*
- (5) Harmonised System of Nomenclature code for goods or services;*
- (6) Description of goods or services;*
- (7) Quantity in case of goods and unit or Unique Quantity Code thereof;*
- (8) Total value of supply of goods or services or both;*
- (9) Taxable value of the supply of goods or services or both taking into account discount or abatement, if any;*
- (10) Rate of tax and amount of tax (central tax, State tax, integrated tax, Union territory tax or cess);*
- (11) Place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce and address of delivery where the same is different from the place of supply.*
- (12) Whether the tax is payable on reverse charge basis; and*
- (13) Signature or digital signature of the supplier or his authorised representative.*

**6.2** The applicant has stated that as provided in above paras the subject supply pertains to supply of service liable to tax at the rate of 18%; that in terms of Section 8(b), the rate of tax is determined based on such supply which attracts highest rate of tax amongst all the supplies which are provided in mixed form; that in the present case, it is already concluded the subject supply pertains to services; that since it is a combination of services including transportation of cargo, handling of the cargo and obtaining all documents related to export of the cargo, etc., the service accounting code as per the scheme of classification adopted under GST law would be 999799 bearing the description “other services nowhere else classified under the group 99979” vide description of Other miscellaneous services; that the applicant would be mentioning in the invoice the description of the services as provided, the same would be only for identification purposes with regards to the work done; that the accounting code for services would remain the same as 999799 and tax shall be discharged at the rate of 18% in terms of Sr.No.35 of Notification No.11/2017-Central Tax(Rate) dated 28.06.2017.

**7.** The applicant has given his view point in respect of Question 3 raised by him seeking Advance Ruling, as under:

Section 16(2) of the CGST Act shall be relevant and the same is extracted as under:

*16(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—*

*(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;*

*(b) he has received the goods or services or both.*

*Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*

*(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and*

*(d) he has furnished the return under section 39:*

(emphasis supplied)

**7.1** The applicant has stated that in terms of sub-section (2) of Section 16 of the CGST Act, no person shall be entitled to take credit of any input tax in respect of goods or services or both unless he has fulfilled all the following conditions-

- (a) The registered person should be in possession of tax invoice, debit note or any other tax paying documents as may be prescribed under the rules.
- (b) The registered person should have received the goods or services or both.
- (c) Tax should have been deposited with the government.
- (d) Return prescribed under Section 39 should be filed.

**7.2** The applicant has submitted that in the present case, they fulfil all the above referred conditions and thus render themselves eligible to avail the input tax credit with regards to the inward supplies procured for making the subject outward supply; that they are specially concerned about the fact that whether the input tax credit attributable to such supplies which are exempt under GST

law will be disallowed to them in view of the fact that the subject supply under the agreement consists of few exempt supplies; that in terms of Section 17(2) of the CGST Act, the input tax credit attributable to the exempt supplies is restricted and made liable for reversal; that in the present case, the applicant is not rendering any individual supply which is exempt under the GST law; that if the applicant would have made individual supplies which are exempt under GST, the input tax credit pertaining to such individual/separately identifiable supply would be subject to restriction; that in the present scenario, the supply is a mixed supply whereby two or more supplies are bundled and provided against one single consideration hence the supplies which otherwise would have enjoyed exempt status have been supplied on payment of tax, therefore, the provision under Section 17(2) of the CGST Act would not be applicable in the present case and hence the applicant would be eligible to avail the entire input tax credit for the subject supply which consists of exempt supplies as well as the same have been made on payment of applicable GST i.e. 18%.

**8.** The applicant has submitted his view point in respect to Question 4 raised by him seeking Advance Ruling, as under:

The applicant has submitted that as already provided in reply no.3, they are not going to be engaged in providing any exempt supply in individual capacity and the subject supply is a mixed supply provided against single consideration; that once, it is concluded that the subject supply is mixed supply and tax is discharged at the rate as applicable, the status of the individual supplies vis-a-vis taxable or exempt loses its relevance; that based on above assertions, they are of the view that the exporter i.e. the service recipient going to be engaged in making zero-rated supply would be entitled to avail refund of accumulated input tax credit with regards to the inward services procured from the applicant in terms of Section 54(3) of the CGST Act.

Section 54(3) of the CGST Act reads as under:

*54(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:*

*Provided that no refund of unutilised input tax credit shall be allowed in cases other than—*

*(i) zero rated supplies made without payment of tax;*

*(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:*

*Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:*

*Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.*

**8.1** The applicant has stated that based on the above provision, a registered person may claim refund of unutilised input tax credit at the end of any tax period in case where the registered person makes zero-rated supply without payment of tax.

### **DISCUSSION & FINDINGS:**

**9.** We have considered the submissions made by the applicant in their application for advance ruling, additional submissions made by them dated 19.08.2020 as well as the arguments/discussions made by their representative



Shri Hemen Furiya, C.A. at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

**10.** At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to similar provisions of the GGST Act.

**11.** As per the submission of the applicant, they are in process of entering into an agreement with a specific client engaged in the business of Export of Agricultural produce(Rice) and the services to be provided by the applicant comprise of the following broad categories for which they wish to quote a single consolidated rate(per container) towards the said bundle of services, hence they are seeking clarification as to the classification of services, applicable HSN and rate of GST to be charged:

- (1) Clearing and Forwarding Agency Charge(CHA License is in the name of a sister concern M/s. SRS Cargo).
- (2) Providing labour for loading of cargo into containers.
- (3) Allied services for export and import cargo like:
  - Lift On/Lift off charges to CFS/Empty Container Yard.
  - Survey Tally formality for goods loaded in the container.
  - Obtaining Custom Permission for Self-Sealing.
- (4) Transportation of cargo/containers from factory/warehouse to CFS/port:
  - Transportation of Agricultural products:like Rice,tea etc.
  - Transportation of empty container from CFS/Empty container yard to party warehouses in various locations.
- (5) Obtaining custom related certificates/clearing: like Bill of Lading, Health Certificate, Non GMO, Pytho etc. with complete documentation for export shipment.

**12.** The applicant wishes to quote a single consolidated rate(per container) towards the above bundle of services, hence they are seeking clarification as to the classification of services, applicable HSN and rate of GST to be charged. The applicant has asked the following question seeking Advance Ruling on the same:

- “
- (1) *If we want to provide all above services for a “Single consolidated Rate” as a package, whether such supply would be treated as “Mixed supply” as per the provisions of Section 2(74) of the CGST Act, 2017, since the services are not naturally bundled and are capable of being provided independently? Or it shall be treated as “Composite supply”?*
  - (2) *What shall be the applicable HSN code and corresponding GST Rate for such bundle of services? (Highest Rate of Service in the bundle is 18%).*
  - (3) *Whether the firm shall be eligible to avail ITC on the following:
    - Regarding GST paid on Commercial vehicles & Repair & maintenance cost of such vehicles used for transportation of goods/containers.
    - ITC on inward supply from CFS/Port/Labour contractor etc. related to such packaged outward supply.*
  - (4) *Whether the Exporter client shall be eligible to claim refund of the GST paid by them on our outward supply invoices?”*

**13.** To begin with, we would like to state here that on the basis of the submission of the applicant as well as the discussions made during the course of personal hearing by the representative of the applicant, it appears that the

issue brought before us by the applicant has not yet materialised so far i.e. the application for Advance Ruling has been filed on 13.10.2019 but no agreement has been reached so far by the applicant with the exporter of rice (referred to by them) after nearly a year of filing of the application. Looking to the questions asked by the applicant, we feel the need to thoroughly go through the provisions of Section 97 of the CGST Act, 2017 which reads as under:

*“97. (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

*(2) 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.”*

**14.** From the above we find that the provisions for seeking Advance Ruling made under the Act is limited to the activities conducted by the applicant only and is for the purpose of clarifying issues such as classification of the supply of goods/services provided by them, their GST liability if any, applicability of a notification issued under the provisions of the Act, determination of time and value of supply of goods or services or both, admissibility of input tax credit, determination of the liability to pay tax on any goods or services or both, whether applicant is required to be registered or 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. The very purpose of the Board for making the provision of Advance Ruling in the CGST Act, 2017 is to help the applicant in planning his activities which are liable for payment of GST. It also brings certainty in determining the tax liability, as the ruling given by the Authority for Advance Ruling is binding on the applicant as well as Government authorities. Further, it helps in avoiding long drawn and expensive litigation at a later date. Seeking an advance ruling is inexpensive and the procedure is simple and expeditious. It thus provides certainty and transparency to a taxpayer with respect to an issue which may potentially cause a dispute with the tax administration. However, in the present case, we find that the applicant has asked hypothetical questions seeking Advance Ruling on an issue which has not materialised till date. We find that a period of nearly one year has lapsed after the filing of the application of Advance Ruling by the applicant (which was filed on 13.10.2019) but the agreement which they were supposed to make with the so-called Rice exporter has not materialised so far i.e. no agreement has been signed in this regard and therefore no copy has been submitted to us in the instant case. We fail to understand how the applicant expects the Advance Ruling Authorities to answer or to decide on such hypothetical questions like whether five different services likely to be provided by the applicant in the future, if provided for a single consolidate rate would be mixed supply or composite supply, the HSN of the said supply, whether the firm would be liable to avail ITC or not or whether exporter client shall be eligible to claim refund of GST paid on their outward supply invoices simply on the basis of some details provided in writing by the applicant on a deal or agreement which has not materialised so far and which may or may not materialise in the future. We are, therefore, of the opinion that without any agreement or any other relevant documents having been provided by the applicant in the instant case, it would not be possible for us to give a decision in the said matter. In view of the above facts, we don't find it

necessary to go into the details of the issue in hand as well as the hypothetical/speculative questions raised by the applicant for seeking Advance Ruling.

**15.** In light of the foregoing, we rule, as under –

**R U L I N G**

**Question-1:** If we want to provide all above services for a “Single consolidated Rate” as a package, whether such supply would be treated as “Mixed supply” as per the provisions of Section 2(74) of the CGST Act, 2017, since the services are not naturally bundled and are capable of being provided independently? Or it shall be treated as “Composite supply”?

**Answer:** In view of non-submission of copies of agreement or any other relevant documents with regard to the services to be supplied/provided by the applicant M/s. Shree Arbuda Transport, Gandhidham, no decision can be taken in the matter for the reasons discussed hereinabove.

**Question-2:** What shall be the applicable HSN code and corresponding GST Rate for such bundle of services?(Highest Rate of Service in the bundle is 18%).

**Answer:** In view of non-submission of copies of agreement or any other relevant documents with regard to the services to be supplied/provided by the applicant, no decision can be taken in the matter for the reasons discussed hereinabove.

**Question-3:** Whether the firm shall be eligible to avail ITC on the following:

-Regarding GST paid on Commercial vehicles & Repair & maintenance cost of such vehicles used for transportation of goods/containers.

-ITC on inward supply from CFS/Port/Labour contractor etc. related to such packaged outward supply.

**Answer:** In view of non-submission of copies of agreement or any other relevant documents with regard to the services to be supplied/provided by the applicant, no decision can be taken in the matter for the reasons discussed hereinabove.

**Question-4:** Whether the Exporter client shall be eligible to claim refund of the GST paid by them on our outward supply invoices?”

**Answer:** In view of non-submission of copies of agreement or any other relevant documents with regard to the services to be supplied/provided by the applicant, no decision can be taken in the matter for the reasons discussed hereinabove.

**(SANJAY SAXENA)**

**MEMBER**

**(MOHIT AGRAWAL)**

**MEMBER**

Place: Ahmedabad

Date: 17.09.2020.