

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 54/2021

Dated : 29-10-2021

Present:

1. Dr.M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
Joint Commissioner of Customs & Indirect TaxesMember (Central)

1.	Name and address of the applicant	M/s. Time Technoplase Limited, Plot No.605, Part A Belur, KIADB, 3 rd Stage, Belur, Dharwad-580011.
2.	GSTIN or User ID	29AAACT2783J1ZY
3.	Date of filing of Form GST ARA-01	19-08-2021
4.	Represented by	Sri Girish, Employee and Duly Authorised Representative
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Taxes, Belgaum Commissionerate, Belagavi
6.	Jurisdictional Authority - State	ACCT, LGSTO-310, Dharwad
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act vide CIN IBKL21052900113768 dated 31/05/2021.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Time Technoplast Limited (herein after referred to as 'the applicant'), Plot No.605, Part A, Belur, KIADB, 3rd Stage, Belur, Dharwad-580011, having GSTIN 29AAACT2783J1ZY have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act & KGST Act.



#Time Technoplast Limited

2. The Applicant is a Limited Company, registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively), engaged in manufacturing of packaging material which includes HDPE Drums, Jerricans and 1000 litre Intermediate bulk containers (IBC's).

3. The applicant supplies HDPE drums, on receipt of a purchase order from a merchant exporter, raises invoice for supply of said drums on the merchant exporter and delivers the same, as per the merchant exporter's direction, to the premises of the chemical manufacturer, who manufactures ethyl alcohol and packs the same in the said HDPE drums and the merchant exporter exports the said ethyl alcohol packed in said HDPE drums, within the stipulated time. In this regard, the applicant sought advance ruling in respect of the following question:

Whether they are liable for 0.1% concessional rate of tax under Notification No.41/2017-IT (Rate) on supply of HDPE Drums for use by the manufacturer of Ethyl Alcohol in his factory for packing his manufactured goods and supply to merchant exporter?

4. **Admissibility of the application:** The question is about "applicability of a notification issued under the provisions of the CGST/KGST Act 2017" and hence the application is admissible under Section 97(2)(b) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnishes the following facts relevant to the issue :

5.1 The Applicant stated that they are manufacturers of packaging material which includes HDPE Drums, Jerri cans and 1000 liter Intermediate Bulk Containers (IBC's) falling under Heading 3923 of Schedule to Customs Tariff Act. The applicant on receipt of purchase order from a merchant exporter for supply of HDPE drums raises the invoice on the merchant exporter and as per the instructions of the merchant exporter delivers the said HDPE drums to the premises of a chemicals manufacturer.

5.2 The Chemical Manufacturer is engaged in the manufacturing of Ethyl Alcohol (Extra Natural Alcohol) and other chemicals falling under Tariff Item 22071090. Ethyl Alcohol is packed by this chemical manufacturer in the drums supplied by the applicant and thereafter it is subsequently exported out of India by the merchant exporter.

5.3 At the time of export, the Merchant Exporter prepares Shipping Bill, commercial invoice and packing list. In part II of shipping bill (Invoice details) the Merchant Exporter shows the name of its supporting manufacturers (SM)-(1) the



supplier of Ethyl Alcohol and (2) the supplier of HDPE drums. The details mentioned include the applicant's product's HSN Code, their name and GST number, invoice number, quantity supplied against the said invoice and invoice date against which the said drums were supplied by them. These details get automatically updated on the advance IT platform of GST for auto verification.

5.4 The applicant stated that they supply HDPE drums to the said Merchant Exporter which are delivered to the manufacturer of Ethyl Alcohol as per instructions of this merchant exporter. Ethyl Alcohol is then packed in HDPE drums and it gets exported outside India within a specific timeline. The applicant further stated that all other drum manufacturers across the country are supplying drums to merchant exporters at concessional rate following the aforesaid procedure.

5.5 The applicant further stated that the GST authorities have objected that the goods, under Notification 41/2017-Integrated Tax (Rate) [similar Notification No.40/2017-Central Tax (Rate)], have to be received directly to the port of exportation etc., and have to be exported there from directly without any further processes. The Department [GST authorities] claims that the facility that was available under Central Excise regime till 30.06.2017 under Notification No.21/2004-C.Ex., (NT) dated 06.09.2004 [rebate of duty on excisable goods that are exported] or under Notification No.43/2001-C.Ex.,(NT) dated 26.06.2001 [procurement of excisable goods without payment of duty for use in manufacture of export goods is not available under GST with effect from 01.07.2017. In view of the above, the applicant filed the instant application for advance ruling.

6. Applicant's Interpretation of Law:

6.1 The applicant, quoting the conditions (vi), (vii) & (viii) of the Notification No.40/2017-Central Tax (Rate) dated 23.10.2017, contends that the goods cleared from manufacturers' factory on payment of 0.1% of Integrated Tax should be exported by the registered recipient within 90 days from the date of issue of tax invoice by the registered supplier from Port, ICD, Airport or Land Customs Station directly without subjecting to any process.

6.2 In the present case, the drums intended to be cleared under Notification No.41/2017-Integrated Tax (Rate) and similar CGST Notification No.40/2017-Central Tax (Rate) both dated 23.10.2017 on payment of Integrated Tax of 0.1% would be received by chemical manufacturer in his factory, wherein the goods manufactured by the chemical (i.e. Ethyl Alcohol) manufacturer would be packed in the drums supplied by the applicant herein and thereafter such goods contained in drums would be exported by Merchant Exporter.



PERSONAL HEARING PROCEEDINGS HELD ON 07.10.2021

7. Shri Girish, Employee and Duly Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issue involved on which advance ruling is sought by the applicant and relevant facts along with the arguments made by the applicant & the submissions made by their learned representative during the time of hearing.

10. The applicant supplies HDPE drums, alleged packing material, to a merchant exporter, on receipt of a purchase order, by raising invoice on the merchant exporter and delivers the subject material, under the instructions of the said merchant exporter, to the premises of the chemical manufacturer, who manufactures the ethyl alcohol which is packed in the HDPE drums and then exported by the merchant exporter. Thus, the applicant sought advance ruling in respect of the question mentioned at para 3 supra.

11. The applicant contested that their product HDPE drums are used for packing the ethyl alcohol which is exported by the merchant exporter and hence they are entitled to the concessional rate of 0.1%, in terms of Notification No.40/2017-Central Tax (Rate) dated 23.10.2017 or Notification No.41/2017-Integrated Tax (Rate) dated 23.10.2017.

12. We proceed to examine as to whether the applicant is entitled to the benefit of the Notification supra. In this relation we invite reference to the conditions specifically (vi), (vii) and (viii) of Notification No.41/2017 – IT (Rate) dated 23.10.2017, which are appended below:

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XXXXXXXXX

(ii) the registered recipient shall move the said goods from place of registered supplier-

(a) directly to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported; or

(b) directly to a registered warehouse from where the said goods shall be moved to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported:

(vii) if the registered recipient intends to aggregate supplies from multiple registered suppliers and then export, the goods from each registered supplier shall move to a registered warehouse and after aggregation, the registered recipient shall move goods to the Port, Inland Container Depot, Airport or Land Customs Station from where they shall be exported;

(viii) in case of situation referred to in condition (vii), the registered recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the registered warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the registered supplier as well as to the jurisdictional tax officer of such supplier;

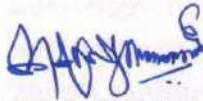
13. The Notification supra stipulates certain conditions for supply of goods to the merchant exporter at concessional rate of GST at 0.1%. To avail the concessional rate of GST, the registered recipient is required to move the goods directly from the place of registered supplier to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported, or to a registered warehouse from where the goods shall be further moved to the Port, Inland Container Depot, Airport or Land Customs Station. In case the merchant exporter procures goods from different registered suppliers, the merchant exporter should move such supplies to the registered warehouse, aggregate such procured goods at the warehouse and should move the goods to the Port, Inland Container Depot, Airport or Land Customs Station from where the goods are exported. In the instant case, the applicant supplies HDPE drums by raising the invoice under Billed to Merchant Exporter and shipped to the manufacturer of the ethyl alcohol. Thus, the impugned goods are not moved directly to the Port, Inland Container Depot, Airport or Land Customs Station or to a registered warehouse, which is a pre-condition for availing concessional rate of GST. Therefore, the applicant is not entitled to supply the impugned goods at the concessional rate of GST at 0.1%.



14. In view of the foregoing, we pass the following

RULING

The applicant is not entitled for 0.1% concessional rate of tax (GST) under Notification No.41/2017-IT (Rate) on supply of HDPE Drums for use by the manufacturer of Ethyl Alcohol in his factory for packing his manufactured goods and supply to merchant exporter.



(Dr. M.P. Ravi Prasad)

Member

Karnataka Advance Ruling Authority
Place : Bengaluru - 560 009



(T. Kiran Reddy)

Member

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date : 29-10-2021

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Belagavi Commissionarate, Belagavi.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-310, Dharwad.
5. Office Folder.

