

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI - 600 003.**

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

Members present are:

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Tmt. K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No.21/AAR/2022 DATED: 30.06.2022

GSTIN Number, if any / User id		33AMJPV2407M1ZR
Legal Name of Applicant		SRINIVASAKUMAR VEERAMANI
Trade Name of Applicant		M/s Vishnu Lakshmi Fly Ash Bricks
Registered Address/Address provided while obtaining user id		93/2C, Trichy Main Road, Vazhuthareddy, Villupuram-605602
Details of Application		GST ARA- 01 Application Sl.No.40/2021/ARA dated: 22.11.2021
Concerned Officer		Centre: Chennai Outer Division: Villupuram State: Villupuram-1 Assessment Circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Supply of goods
B	Description (in Brief)	The applicant is proposing to engage in the manufacture of "Fly Ash Bricks and Fly Ash Blocks"
Issue/s on which advance ruling required		Classification of goods
Question(s) on which advance ruling is required		1. What is the classification under Customs Tariff for "Fly Ash Blocks"? 2. What is the rate of GST applicable for "Fly Ash Blocks"?

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

Shri. SRINIVASAKUMAR VEERAMANI (M/s Vishnu Lakshmi Fly Ash Bricks), 93/2C, Trichy Main Road, Vazhuthareddy, Villupuram-605602 (hereinafter called the Applicant) are registered under GST with GSTIN 33AMJPV2407M1ZR. The applicant has sought Advance Ruling on the following questions:

1. What is the classification under Customs Tariff for "Fly Ash Blocks"?
2. What is the rate of GST applicable for "Fly Ash Blocks"?

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they are proposing to engage in the manufacture of "Fly Ash Bricks and Fly Ash Blocks". These Fly Ash Bricks and Fly Ash Blocks are used in construction activities as an alternative for traditional clay bricks and concrete blocks. The applicant has stated that the major raw material for manufacture of Fly ash bricks and Fly ash blocks is "fly ash" which emerges as a waste during the manufacture of iron and steel, cement, power plant, etc. As the said fly ash is harmful to the environment, if let out in open, alternative usage of fly ash is encouraged and one way in which the same can be used is for manufacture of bricks and blocks. Apart from Fly ash, which forms the major raw materials, other materials such as Ordinary Portland Cement, sand and water are also used in the manufacture of Fly ash bricks and Fly ash blocks. The difference between Fly ash bricks and Fly ash blocks submitted by the applicant is as follows:

- Bricks are a standard construction material used for all construction purposes, the size and dimension of Bricks are standardized and Bureau of Indian Standard's IS 12894: 2002 lays down the standard specifications and dimensions of Fly Ash Bricks.
- Fly Ash Blocks are bigger in dimension and size, depending on the nature and purpose of their use. Blocks are manufactured in different sizes, depending upon their use in construction. The applicant proposes to manufacture Fly Ash Blocks of dimension, length - 22.5 CM, width 22.5 CM and height 8 CM.

The applicant has stated that the distinction between "bricks" and "blocks" is well recognized in the Industry in terms of their dimensions, size and use.

2.2 On interpretation of law, the applicant has stated that Fly Ash Bricks and Fly Ash Blocks are broadly classifiable under Chapter 6815 of the Customs Tariff Act and Fly ash bricks and tiles are specifically covered under 6815 9910, Fly Ash Blocks do not have any specific heading and hence classifiable under 6815 9990 - Others. In respect of the rate of GST the applicant has referred to the various changes the rate of the Fly Ash Bricks and Blocks GST have undergone. They have submitted that w.e.f 01.01.2019, the "Fly Ash Bricks and Fly Ash aggregates with 90% or more Fly Ash content" attracts GST at 5% and Fly Ash Blocks attracts GST at 5% irrespective of the fly ash content as per Sl.No.225B in Schedule I of Notification 01/2017 CT(Rate) dated 28.06.2017 as amended. The Applicant has stated that they are proposing to manufacture Fly Ash Blocks and the Fly Ash content in such Fly Ash blocks would be 60% or above. Unlike the case of Fly Ash Bricks, where the GST Rate is dependent upon the Fly Ash content in such bricks, the rate of GST on Fly Ash Blocks, has been prescribed uniformly at 5%, irrespective of the Fly Ash content in such Fly Ash Blocks. In this connection, the applicant also has also relied on the decision of the Gujarat Authority for Advance Ruling in the case of M/s Dipakkumar Ramjibhai Patel - 2021 (41) GSTL 65 AAR-Guj, wherein it has been held that Fly Ash Blocks would attract 5% GST from 01.01.2019. In view of the above facts, the applicant is seeking Advance Ruling on the questions mentioned in para supra.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing

in Digital media. The applicant consented and the hearing was held on 19.01.2022. The Authorised Representatives (AR), Shri. G.Natrajan, Advocate and Shri. Srinivasa Kumar, (AR) appeared for the hearing virtually and reiterated the submissions. The bricks/blocks were shown and the AR stated that they propose to manufacture only blocks in this unit. The CGST Member questioned the AR about the dimension for a brick and block and when does the brick become a block. The AR replied that the blocks have no standard specification/dimensions. The applicant was asked to submit the following documents:

1. Proposed manufacturing process with the percentage composition of ingredients.
2. Details of infrastructure in place
3. Copies of PO received for the proposed supply.
4. As per Civil engineering, the composition which defines blocks and bricks separately; whether any specific IS standard or international standard is available for such blocks.

3.2 In response to a reminder from Registry dt. 09.02.2022, applicant vide their email dated 19.02.2022 informed that they had arranged for video recording of the manufacturing process from some other unit after taking their permission and also informed that as they are proposing to do business, they do not have any advance purchase orders as of now and no invoices have been raised. Further, vide their email dated 21.02.2022 the applicant shared the google link for the video recording of the manufacturing process. A notice was issued to the applicant on 02.03.2022 to submit all the documents as required in the hearing held on 19.01.2022.

3.3 In response to the notice issued, the applicant vide their letter dated 03.03.2022 submitted the following details.

➤ Finished Product: Fly Ash Block

➤ Raw Material & its Composition

Fly Ash 60%

CEMENT 30%

M-Sand 10%

Water Based on the climate situation

➤ MANUFACTURE PROCESS

- i. Fly Ash received from the thermal power and stored in the xylos.
- ii. They get the cement from the outsource purchase and sit is stored in the xylos.

- iii. M-sand or River Sand, they get it from the outsource.
- iv. All these raw materials with the requisite proportions are fed in double roll paddle mixer (Double shaft mixer) by means of a feeder.
- v. Then 4% water is added and intimate mixing is done. The mixing proportion (as per Brick composition given by the customer) is generally 60% FlyAsh, 30%CEMENT and MS and 10%.

➤ Fly ash reacts with CEMENT in the presence of moisture to form FLY ASH BLOCK. After this the mixture is discharged and sent to manual presses for moulding; which is done by moulding machine. This Hydraulic Machine has 4= Block at a time with capacity 25000 nos. of Blocks/day. The raw mix is moulded in the moulding press/machine, pressed under a pressure into block. The blocks are then withdrawn from the moulding machine and they are air dried under the sun and kept for 15 days. Trolleys with ready blocks to the storage yard, where they are unloaded by overhead traveling crane and a grip tongue. After 15 days curing, the blocks are ready for use. The final products are sorted out and inspected for quality and stacked in the go-down or yard or loaded on trucks for marketing for use in construction The whole processes can be divided into following unit operations.

- Grinding & Mixing
- Pressing
- Removal & Stacking for Curing

3.4 On perusal of the submissions made by the applicant, the following details were called for vide notice dated 29.03.2022.

- i. details of infrastructure available in the premises of the applicant for the manufacture of the product for which ruling is applied for
- ii. copies of PO received for the proposed supply of product
- iii. As per civil engineering, the composition which defines blocks and bricks separately, whether any specific IS Standard or International standard is available for such blocks.

3.5 The applicant vide their letter dated 30.03.2022(Received on 01.04.2022) submitted the following facts in respect of the details of infrastructure in place:

- The applicant has proposed to set up manufacturing facility, after getting clarity about the GST rate, as the industry is highly competitive. They have obtained GST registration as of now. Further, as per the definition of term “applicant’ in Section 95(c) of the CGST/TNGST Act 2017, “applicant means any person registered or desirous of obtaining registration under the Act”, hence the applicant is of the opinion that even a person proposing to undertake an activity can seek Advance ruling.
- Further, regarding the copies of PO for proposed supply they have submitted that they have not received any PO from any customers. They have stated that there is huge market potential for flyash blocks in and around Villupuram, hence they have proposed to start manufacturing the same. Also, they have stated that the flyash bricks and blocks industry is highly unorganized and there would be no formal PO and the sales will be based on oral orders.
- In respect of query regarding the composition which defines blocks and bricks separately, whether any specific IS Standard or International standard is available for such blocks the applicant has submitted that as far as their knowledge, standards are prescribed only for bricks and no such standards are prescribed for blocks.

3.6 On perusal of the facts submitted by the applicant, report from the jurisdictional officer was called for vide letter dt.03.05.2022 on the following details:

- (i) Infrastructure available as on date for such proposed manufacture of fly ash blocks
- (ii) Infrastructure available for activities presently being undertaken
- (iii) Copies of financial statements
- (iv) Details of materials/items that they are presently dealing with.

In this regard , the jurisdictional officer has vide their letter dt.27.05.2022, has submitted that the Range Officer visited the Principal place of business of the applicant situated at First Floor, 93/2c, Trichy Main Road, Vazhudhareddy, Villupuram on 19.05.2022 and reported as follows:-

(i) On verification, it is found that there is no infrastructure available for such proposed manufacture of fly ash bricks. The applicant has only office premises on the above address. The photograph of the premises also attached with this letter.

(ii) It is found that no activities are being undertaken at present on the said premises.

(iii) As on date there are no financial statements available for M/s Sri Vishnu Lakshmi Fly Ash Bricks. The proprietor is filing her IT returns in her individual capacity. Copies of last 3 years financial statements are attached with this letter.

(iv) At present, the applicant is not dealing with any item/ material.

The above details are submitted under Section 98(2) read with Section 105 of the CGST Act 2017. The same is herewith forwarded for further necessary action.

3.7 Applicant vide their letter dt.10.05.2022, submitted the following:

(i) They are a proprietary firm, owned by Smt. Veeramani Srinivaskumar ; she is filing her IT returns in her individual capacity till date.

(ii) As informed vide their letter dt. 30.03.2022, they propose to undertake the manufacture only after getting the ruling; they have only an office at their premises viz., 93/2C, Trichy Main Road, Vazhudhareddy, Villupuram.; they will set up the infrastructure only when the start manufacturing.

(iii) They are not undertaking any activity at present and there are no financial statements for M/s.Vishunu Lakshmi Fly Ash Brick; they are not dealing with any items now.

4. The Centre Jurisdictional authority who has administrative control over the applicant has submitted that as on date there are no pending proceedings on the issue raised by the applicant. They have also furnished the following comments:

- Classification not applicable for fly ash blocks under Customs tariff
- The rate of tax for Fly Ash Blocks is 5% as per Sl.No.225 A Notification No.24/2018 CT(rate) dated 31.12.2018 effective from 01.01.2019.

5. The State Jurisdictional Authority has stated that there are no pending proceedings on the issue raised by the applicant in the Advance Ruling application.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant, all the additional submissions made during the hearing and thereafter, the verification report and submissions of the Jurisdictional authorities. The applicant has proposed to manufacture "Fly Ash Bricks and Fly Ash Blocks". Hence, the applicant has sought Advance Ruling on the following questions:

1. What is the classification under Customs Tariff for “Fly Ash Blocks”?
2. What is the rate of GST applicable for “Fly Ash Blocks”?

As these questions fall under the purview of Section 97(2) of the CGST Act 2017, they are admitted for consideration.

7.1 The applicant has stated that they are proposing to manufacture “Fly Ash Bricks and Fly Ash blocks” and have applied for ruling for classification of “Fly Ash Blocks” and the applicable GST. The applicant on their interpretation of law has submitted that the product “Fly Ash Blocks” would merit classification under CTH 6815 and the applicable rate of tax is 5% w.e.f 01.01.2019.

7.2. To establish the proposed transaction, the applicant was asked to furnish the details of infrastructure proposed/in-place, for which the applicant stated that they did not have any infrastructural facilities in place for the proposed manufacture and submitted, a video recording of the manufacturing process which was recorded at another unit. It was also stated that they have proposed to set up manufacturing facility only after getting clarity on the GST rate and they have sought Advance Ruling to classify the product/applicable rate. Further it was stated that they have not received any formal Purchase orders from any customers and that the fly ash bricks and blocks industry being a highly unorganized sector, there would be no formal purchase orders and the sales would only be based on oral orders.

8.1 On the admissibility of their application in the present stage of their proposal, applicant stated that the term “applicant’ in Section 95(c) of the CGST/TNGST Act 2017, means any person registered or desirous of obtaining registration under the Act, hence they are of the opinion that even a person proposing to undertake an activity can seek Advance ruling.

8.2. Section 95(a) of CGST Act 2017 defines Advance Ruling to mean a decision provided by the authority or the Appellate Authority or the National 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 or of section 101C of the CGST Act, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the Applicant. Thus Section 95(a) specifies that an advance ruling can be applied for, only in relation to proposed supply of goods or services or both.

8.3 Also, the Flyer issued by CBIC on Advance ruling mechanism in GST clarifies as follows:

The definition of Advance ruling given under the Act is a broad one and an improvement over the existing systems of advance rulings under Customs and Central Excise Laws. Under the present dispensation, advance rulings can be given only for a proposed transaction, whereas under GST, Advance ruling can be obtained for a proposed transaction as well as a transaction already undertaken by the appellant.

From the above, it is evident that advance ruling can be extended for a proposed transaction as well as transaction being undertaken by the applicant. Thus it is clear that the Advance ruling is in respect of a transaction of supply whether proposed or being undertaken.

9. In this scenario, to confirm that the applicant has come up for ruling in respect of proposed transaction, the central jurisdictional officer was required to conduct a verification of the premises under the powers vested vide Section 105 and report on the infrastructural facilities available at the applicant's premises, activities undertaken by the applicant at present and the materials they are dealing with at present. The Jurisdictional officer has verified the premises of the applicant and has reported that the applicant has no infrastructure facility to commence the manufacture of fly ash bricks/blocks and they are not dealing with any material at present. Further, from the photographs furnished along with the report, it is seen that the applicant is housed in a single room of first floor of a building which has been declared as their principal place of business and do not even remotely has the required infra-structure as furnished in the Video submitted by the applicant.

10. Thus from the above, it is seen that the applicant has no infrastructural facilities for the proposed manufacture, has not received any orders for supply of the proposed product to be manufactured. Further from the report from the Jurisdiction authority it is evident that the applicant has not substantiated any infrastructure (in terms of raw materials/machinery/demand, etc) based on which such a supply can be undertaken by them. In this scenario, it is held that the

application made by them is pre-mature and does not fall under the ambit of the proposed transaction i.e., proposed supply of goods or services. Hence the application is not admissible.

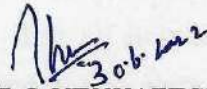
11. In view of the above, we rule as under:

RULING

The application is not admitted for ruling as the applicant has not substantiated the proposed transaction with necessary details/documents.


Smt. K.LATHA
Member (SGST)




Shri.T.G.VENKATESH
Member (CGST)

To
SRINIVASAKUMAR VEERAMANI
M/s Vishnu Lakshmi Fly Ash Bricks,
93/2C, Trichy Main Road,
Vazhuthareddy,
Villupuram-605602

// BY SPEED POST WITH ACK.DUE //

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Principal Secretary/Commissioner of Commercial Taxes/Member,
IIndFloor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Principal Commissioner of GST & Central Excise,
Chennai Outer Commissionerate, Newry Towers, No. 2054,
I Block, II Avenue, 12th Main Road, Annanagar, Chennai - 600 040.
4. The Joint Commissioner(ST), Vellore Intelligence, 4, Integrated Commercial
Taxes Building, Bharathiyar Salai, Fort Round Road, Vellore - 632 001.
5. Master File/ Spare - 2.