



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)
Sri Sahil Inamdar, Additional Commissioner (Central Tax)

A.R.Com/03/2022

Date:14.09.2022

TSAAR Order No.53/2022

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

- 1.** M/s. Gandour India Food Processing Private Limited, Survey No.172, 173, Phase IV, IDA, Cherlapally, Hyderabad, Telangana – 500 051 (36AABCG1404G1Z6) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
- 2.** At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
- 3.** It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.
- 4. BRIEF FACTS OF THE CASE:**
 - 4.1** Statement of relevant facts as per the applicant having a bearing on the question(s) on which Advance Ruling is required is reproduced below:-

The applicant is following the 4 digit code and as per the notification 78/2020, they are required to mention 6-digit SAC on their service invoices w.e.f. 01-04-2021. Accordingly, the SAC code applicable for them is 998816.

But they could not find separate tax rate for this 6-digit code in the service code classification. When the requirement of 6-digit code is given, the tax rates also should have been released simultaneously to this effect.

4.2 Company Background:

M/s Gandour India Food Processing Pvt Ltd in Cherlapalli, Rangareddy, Hyderabad is a top player in the category Chocolate Manufacturers in the Rangareddy, Hyderabad. Established in the year 1987. This well-known establishment acts as a one-stop destination servicing customers both local and from other parts of Rangareddy, Hyderabad. Over the course of its journey, this business has established a firm foothold in it's industry. It is at, Opposite CMAT, Phase 4, IDA, which makes it easy for first-time visitors in locating this establishment. It is known to provide top service in the following categories: Chocolate Manufacturers, Confectionery Manufacturers, Food Product Retailers, Sugar Coated Chocolate Manufacturers. They are "Job Work provider" doing job work of manufacturing chocolates (food product falling under Chapter 19 of customs tariff Act) with inputs provided by the "job work receiver". Their service is coming under SAC Code 9988 with applicable tax rate of 5%.

5. QUESTIONS RAISED:

Q1. GST Tax rate on Service Accounting Code 998816.

6. LEGAL PROVISIONS:

The definition of 'Job work" is as under:

What is Job work? Section 2(68) of the CGST Act, 2017 defines job work as 'any treatment or process undertaken by a person on goods belonging to another registered person'. The one who does the said job would be termed as 'job worker'. The ownership of the goods does not transfer to the job worker but it rests with the principal. The job worker is required to carry out the process specified by the principal, on the goods.

With regard to IGST liability, Sec. 13 of IGST Act, 2017 reads as under:-

13. (1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services: Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

(3) The place of supply of the following services shall be the location where the services are actually performed, namely:-

(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs;

(b) services supplied to an individual

7. APPLICANT'S INTERPRETATION OF THE LAW

As per rate notification 31/2017, dt. 13-10-2017, serial number 26, Heading 9988 clause (f) "all food and food products falling under Chapter 1 to 22 in the first schedule to the Customs Tariff

Act, 1975 (51 of 1975)". Their products falling under chapter 19 of the Customs Tariff Act and accordingly tax was paid at 5%.

The Notification 78/2020, dt. 15-10-2020, registered dealer with turnover more than 5 Crores to mention 6 digit code from 01-04-2021.

Accordingly, their product falls under 998816 but there is no where clarified the tax rate applicable to this 6 digit code. This 6 digit code is falling in 4 digit code of 9988 which is having tax rate of 5%.

Seeking clarification on the tax rate applicable to this effect.

8. PERSONAL HEARING:

The Authorised representatives of the unit namely Sri M. Ganesh, CA, Sri Kishore Kumar, CA, Sri P. Anil Kumar, Finance Executive attended the personal hearing held on 25.08.2022. The authorized representatives reiterated their averments in the application submitted and contended as follows:

1. That they are "Job work provider" doing job work of manufacturing chocolates (food product falling under Chapter 19 of customs tariff Act) with inputs provided by the "job work receiver". Their service is coming under SAC Code 9988 with applicable tax rate of 5%.
2. That as per notification 78/2020, they required to mention 6-digit SAC on their service invoices w.e.f. 01.04.2021. Accordingly, the SAC code applicable for them is 998816. But they could not find separate tax rate for this 6-digit code there by concluding that the tax rate of SAC code 9988 at 5% to applied for the six digits as well.

Further, it is submitted that:

1. That they were following the 4-digit code and as the notification 78/2020, they required to mention 6-digit SAC on their service invoices w.e.f. 01.04.2021. Accordingly, the SAC code applicable for them is 998816.
2. But they could not filed separate tax rate for this 6-digit code in the service code classification. When the requirement of 6-digit code is given, the tax rates also should have been released simultaneously to this effect.
3. But they could not find any, thus the clarification sought.

Further also submitted that:

1. As per rate notification 31/2017, dt. 13-10-2017, serial number 26, Heading 9988 clause (f) "all food and food products falling under chapter 1 to 22 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975)". Out products falling under chapter 19 of the Customs Tariff Act and accordingly tax was paid at 5%.
2. The Notification 78/2020, dt. 15-10-2020, registered dealer with turnover more than 5 cores to mention 6-digit code from 01-04-2021.
3. Accordingly, their product falls under 998816. But there is no where clarified the tax rate applicable to this 6-digit code. This 6-digit code is falling in 4-digit code of 9988 which is having tax rate of 5%.
4. Seeking clarification on the tax rate applicable to this effect.

9. DISCUSSION & FINDINGS:

The applicant is desirous of ascertaining rate of tax on job work services supplied by them and the SAC applicable to the same. The applicants are undertaking the work of Chocolate Manufacturers, Confectionery Manufacturers, Food Product Retailers, Sugar Coated Chocolate Manufacturers. They are "Job Work provider" doing job work of manufacturing chocolates (food product falling under Chapter 19 of customs tariff Act) with inputs provided by the "job work receiver". The final product is also owned by the applicants' supplier.

In this connection is pertinent to know the whether the applicant falls under supply of services or not?

Para 3 of the Schedule II of the CGST Act, specifies certain activities to be treated as supply of goods or supply of services, in accordance to which

"Any treatment or process which is applied to another person's goods is a supply of services".

Therefore, the supply of the applicant is that of 'supply of Service'.

Having decided that the supply is one of service the relevant Service code is ascertained as under. SAC 9988 as per the Explanatory notes is given under:

9988 Manufacturing services on physical inputs (goods) owned by others

The services included under Heading 9988 are performed on physical inputs owned by units other than the units providing the service. As such, they are characterized as outsourced portions of a manufacturing process or a complete outsourced manufacturing process. Since this Heading covers manufacturing services, the output is not owned by the unit providing this service. Therefore, the value of the services in this Heading is based on the service fee paid, not the value of the goods manufactured.

From the above, it is clear that this heading covers those services characterized as outsourced portions of a manufacturing process. In the case at hand, the job work done by the applicant is a portion of manufacturing process of the customer of the applicant and therefore, the activity of the applicant is covered under SAC 9988.

Job-work is defined under Section 2(68) as below:

***Section 2(68)** of CGST Act defines "Job work means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly.*

Thus the activity of undertaking manufacturing services by a registered person on the physical inputs owned by another registered person is a Job work'. In the case at hand, the applicant is a registered person and when he undertakes work on the goods belonging to another registered person, then the nature of work of the applicant is job work".

The applicable rate of service tax is given vide Notification No. 11/2017-CT(R), dt. 28-06-2017, the relevant portion of which is extracted below:

26	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	(i) Services by way of job work in relation to- (a) Printing of newspapers; (b) Textile yarns (other than of man-made fibres) and textile fabrics; (c) Cut and polished diamonds; precious and semi-precious stones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975); (d) Printing of books (including Braille books), journals and periodicals; (e) Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975). Explanation. - "man made fibres" means staple fibres and filaments of	2.5	-
----	--	---	-----	---

	<p>organic polymers produced by manufacturing processes either,-</p> <p>(a) by polymerisation of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes, or by chemical modification of polymers produced by this process [for example, poly(vinyl alcohol) prepared by the hydrolysis of poly(vinyl acetate)]; or</p> <p>(b) by dissolution or chemical treatment of natural organic polymers (for example, cellulose) to produce polymers such as cuprammonium rayon (cupro) or viscose rayon, or by chemical modification of natural organic polymers (for example, cellulose, casein and other proteins, or alginic acid), to produce polymers such as cellulose acetate or alginates.</p>		
	(ii) Manufacturing services on physical inputs (goods) owned by others, other than (i) above.	9	-

The above Notification is amended vide 20/2017-C.T (Rate), dated 22.08.2017 as under:

(vi) against serial number 26:-

(a) in column (3), in item (i),-

(A) for sub-item (b), the following sub-item shall be substituted, namely:-

“(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);”;

(B) the *Explanation* shall be omitted;

(b) for item (ii) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely:-

(3)	(4)	(5)
“(ii) Services by way of any treatment or process on goods belonging to another person, in relation to- (a) printing of newspapers; (b) printing of books (including Braille books), journals and periodicals.	2.5	-
(iii) Manufacturing services on physical inputs (goods) owned by others, other than (i) and (ii) above.	9	-”;

Notification No. 31/2017-C.T (Rate) dated 13.10.2017 amended entry at Sl.No. 26 of Notification No. 17/2017-C.T (Rate) as under:

(h) against serial number 26, in column (3), -

(i) in item (i), for sub-item (c), the following sub-item shall be substituted, namely: - “(c) all products falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);”;

(ii) in item (i), after sub-item (d), the following sub-item shall be inserted, namely: - “(da) printing of all goods falling under Chapter 48 or 49, which attract TGST @ 2.5per cent. or Nil;”

(iii) in item (i), after sub-item (e), the following sub-items shall be inserted, namely: -

“(f) all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);

(g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975), except dog and cat food put up for retail sale falling under tariff item 23091000 of the said Chapter;

(h) manufacture of clay bricks falling under tariff item 69010010 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);”;

(iv) after item (i), in columns (3), (4) and (5) and the entries relating thereto, the following shall be inserted, namely: -

(3)	(4)	(5)
“(ia) Services by way of job work in relation to- (a) manufacture of umbrella; (b) printing of all goods falling under Chapter 48 or 49, which attract TGST @ 6per cent.	6	-”;

(v) in item (ii), after sub-item (b), the following sub-item shall be inserted, namely: - “(c) printing of all goods falling under Chapter 48 or 49, which attract TGST @ 2.5 per cent. or Nil.”;

(vi) after item (ii), in columns (3), (4) and (5) in column (3) and the entries relating thereto, the following shall be inserted, namely: -

(3)	(4)	(5)
“(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or 49, which attract TGST @ 6per cent.	6	-”;

(vii) in item (iii), for the word, brackets and figures “and (ii)” the figures, brackets, letters and word “, (ia), (ii) and (iia)” shall be substituted;

After consolidating the above notifications, the Entry 9988 is as under:

SI No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
26	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	(i) Services by way of job work in relation to- (a) Printing of newspapers; (b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); (c) all products, other than diamonds, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); (d) Printing of books (including Braille books), journals and periodicals; (da) printing of all goods falling under Chapter 48 or 49, which attract TGST @ 2.5 per cent. or Nil; (e) [xxx] (ea) [xxx] (f) all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); (g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), except dog and cat food put up for retail sale falling under tariff item 23091000 of the said Chapter; (h) [xxx] (i) manufacture of handicraft goods. Explanation. - The expression "handicraft goods" shall have the same meaning as assigned to it in the notification issued in G.O.Ms No. 266 Revenue (CT-II) Department, dt. 29-11-2017 and as amended from time to time. [xxx]	2.5	-

Further, in paragraph 4 relating to Explanation, for the above notification is as under:

"4. **Explanation.-** For the purposes of this notification, -

- (i) Goods includes capital goods.
- (ii) Reference to "Chapter", "Section" or "Heading", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter", "Section" and "Heading" in the annexed scheme of classification of services (Annexure).
- (iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988."

Again vide Notification No. 78/2020-C.T, Dt. 15-10-2020:

In exercise of the powers conferred by the first proviso to rule 46 of the Central Goods and Services Tax Rules, 2017, the Central Board of Indirect Taxes and Customs, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.12/2017 – Central Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 660(E), dated the 28th June, 2017, namely:-

In the said notification, with effect from the 01st day of April, 2021, for the Table, the following shall be substituted, namely, -

Table

Serial Number	Aggregate Turnover in the preceding Financial Year	Number of Digits of Harmonised System of Nomenclature Code (HSN Code)
(1)	(2)	(3)
1.	Up to rupees five crores	4
2.	more than rupees five crores	6

Provided that a registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, as specified in the corresponding entry in column (3) of the said Table in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.

Further as in the Annexure - Scheme of Classification of Services this SAC code S.No. 498 Heading is given as under :

Annexure: Scheme of Classification of Services			
S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
498	Heading 9988		Manufacturing services on physical inputs (goods) owned by others
499	Group 99881		Food, beverage and tobacco manufacturing services
500		998811	Meat processing services
501		998812	Fish processing services
502		998813	Fruit and vegetables processing services
503		998814	Vegetable and animal oil and fat manufacturing services
504		998815	Dairy product manufacturing services
505		998816	Other food product manufacturing services

A combined reading of the above notifications, explanation and SAC Services, the SAC of the Service Offered by applicant is "998816" i.e., "Other food product manufacturing services" and the rate of tax as seen from the above entry is 2.5 % CGST and 2.5% SGST.

10. In view of the foregoing, we rule as follows:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. GST Tax rate on Service Accounting Code 998816.	2.5 % CGST and 2.5% SGST.

(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER (STATE TAX)

(SAHIL INAMDAR)
ADDL. COMMISSIONER (CENTRAL TAX)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. Gandour India Food Processing
Private Limited, Survey No.172, 173,
Phase IV, IDA, Cherlapally, Hyderabad,
Telangana – 500 051.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Secunderabad Commissionerate, 7th Floor, GST Bhavan, Hyderabad – 500 004.

Copy to:

3. The Assistant Commissioner (ST) Nacharam-II Circle.