

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Mr Brajesh Kumar Singh, Joint Commissioner, CGST & CX
Mr Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Rohitash Gupta
Address	4/14, Central Park, Near City Nursing Home, City Centre, Durgapur, Pin Code -713216
GSTIN	Unregistered
Case Number	WBAAR 14 of 2022
ARN	Not Applicable
Date of application	June 14,2022
Order number and date	20/WBAAR/2022-23 dated 22.12.2022
Present for Applicant	Mr. Rohitash Gupta, Applicant

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant, being an unregistered person under the GST Act, has filed this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

- (a) What will be the GST rate of fly ash brick and HSN Code?
- (b) What will be the GST rate of fly ash bricks (having fly ash content around 60%)?
- (c) Whether the fly ash bricks having fly ash content less than 90% are liable to 18%?

1.3 Prior to the amendment made vide Notification No. 6/2022-Central Tax (Rate) dated 13.07.2022 which has made effective from 18.07.2022, the item “fly ash bricks or fly ash aggregate with 90 percent. or more fly ash content; fly ash blocks” would attract tax @ 12% as per entry at serial number 176 B of Schedule II in Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, as amended from time to time [corresponding West Bengal State Notification No. 1125 F.T. dated 28.06.2017]. However, the condition of “90 per cent. or more fly ash content” has been omitted from the description vide the aforesaid notification dated 13.07.2022 and thus the entry at serial number 176B, on and from 18.07.2022, reads as follows:

‘Fly ash bricks, fly ash aggregate, fly ash blocks’.

1.4 In course of personal hearing, the applicant has been apprised of the fact that the question raised by him is to determine the rate of tax of fly ash bricks depending on the ‘content of fly ash’ and post-amendment to Notification No. 6/2022-Central Tax (Rate) dated 13.07.2022, the issue doesn’t exist anymore. The applicant thereafter sent a letter through e-mail seeking withdrawal of the application and to issue a closure order in respect of the instant case.

1.5 However, following facts have come to our knowledge on a later date that:

- I. The applicant has filed this application against the TEMP ID 192000000684TMP which was found to be created on 05/10/2020 as an authorised representative of Swastika Electricals and Fertilizers having GSTIN 07ACOF0824G1Z0.
- II. The applicant has deposited Rs. 5000/- on 04.05.2022 under SGST Act, 2017 and thereafter claimed refund of the same amount on 26.05.2022.

III. Further the amount deposited under CGST Act, 2017 has also not been debited by the applicant.

1.6 Thus it appears that the applicant has filed this application without the payment of requisite fees and the instant application is, therefore, found liable to be rejected. Accordingly the applicant has been communicated and asked to furnish a written submission by 02/11/2022 through e-mail. However, no clarification from the end of the applicant has been furnished by the specified date.

1.7 As the application has been filed without making payment of requisite fee referred to in sub-section (1) of section 97 of the GST Act read with sub-rule (4) of rule 104 of the Central Goods and Services Tax Rules, 2017 and West Bengal Goods and Services Tax Rules, 2017 and as the applicant fails to furnish any clarification in this regard, the application is rejected.

(BRAJESH KUMAR SINGH)
Member
West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member
West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 22.12.2022

To,

Rohitash Gupta

4/14, Central Park, Near City Nursing Home, City Centre, Durgapur, Pin Code -713216

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-7000107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) Office Folder