

Sadesa Commercial Offshore De Macau Ltd (Dated: December 31, 2018)- Tamilnadu

GST - Goods are not to be subjected to IGST when bonded and the payment of Integrated tax is to be effected when the goods are removed for home consumption from bonded warehouse under the provisions of the Customs Act, 1962 - Board Circular 3/1/2018-IGST dated 25 May 2018 relied upon: AAR

GST - In the event the applicant is exclusively conducting the activity of exporting goods to Free Trade & Warehousing Zones and which are subsequently sold to Indian customers who clear the same on payment of appropriate Customs duties, they are not liable to registration u/s 23(1) of the CGST Act: AAR

Nuetech Solar Systems Pvt Ltd (Dated: December 31, 2018)- Karnataka

GST - Applicant imports Vacuum Tubes (Evacuated Tube Collector/Vacuum Tube Collector) for manufacture of Solar Water heater - Applicant contends that the Solar Evacuated Tube Collector (ETC) is a part of Solar Water Heater, a Renewable Energy device, and is used specifically for the particular function i.e heating the water - Applicant claims classification of ETC under 8419 19 and being entitled for benefit of Sl. No. 234, Schedule I of Notification 1/2017-ITR - They seek confirmation in this regard by filing the present application before the Authority for Advance Ruling.

Held: ETC merits to be a part of Solar Water heater systems under Chapter heading 8419 - To claim concessional rate of 5%, the product must satisfy the conditions namely (i) it must fall under either chapter 84 or 85 and (ii) it must be a solar power based device (renewable energy device) or part thereof - Solar water heater in question does not appear to be a 'Solar Power based device' inasmuch as the solar energy is absorbed by the coated surface of the inner tubes (of the Evacuated Tube Collector, ETC) thereby heating them which in turn heats the water contained therein - the term 'power' means electricity and, therefore, the term 'Solar Power' means the electricity generated from solar energy - Solar Power based devices should be such devices which are

operated by electricity generated out of solar energy - in the instant case, the product ETC does not generate electricity at any stage and hence cannot be construed as either Solar Power based device or part thereof - Product ETC is not entitled for concessional rate of 5% IGST under Sl. No. 234 of Schedule I of Notification 1/2017-ITR: AAR

**Asahi Kasei India Pvt Ltd (Dated: September 05, 2018)-
Maharashtra**

GST - Applicant provides sales promotion and marketing support to Asahi Kasei group and for this they have entered into a services agreement with Asahi Japan and Marketing services agreement with various group companies of Asahi Kasei group - applicant seeks a ruling as to whether such service constitutes "support services" or "intermediary services" and whether the same is an "export of service".

Held: Services provided by applicant in the nature of research on the matter related to functioning of the holding company would fall under SAC 99859 as 'Other support services'; services in the nature of information on market would fall under SAC 99837 as 'Market Research services'; services provided by the Marketing Services Agreement would qualify as an export of services as defined u/s 2(6) of the IGST Act : AAR

Tamil Nadu Water Investment Company Ltd (Dated: November 28, 2018)-Tamil Nadu

GST - Goods are not to be subjected to IGST when bonded and the payment of Integrated tax is to be effected when the goods are removed for home consumption from bonded warehouse under the provisions of the Customs Act, 1962 - Board Circular 3/1/2018-IGST dated 25 May 2018 relied upon: AAR

**Toshniwal Brothers (SR) Pvt Ltd (Dated: September 19, 2018)-
Karnataka**

GST - Applicant is a supplier of services to overseas clients and is engaged in the business of promotion and marketing and after sale support services as a composite supply - they have sought a ruling as to whether pure and mere promotion and marketing services will be 'intermediary services' for the purpose of section 12 of the IGST Act, 2017 for determining the place of supply; if after-sale services are also provided under a composite contract, would it then be composite supply and what will be the principal supply for such contracts; whether the contracts would qualify as exports if the client is overseas entity and will be a zero-rated supply.

Held: Contract of services supplied are not pure and mere promotion and marketing services but in the nature of facilitating the supply of goods and hence would amount to "intermediary services" - after sales services are not in the nature of composite contract and they are independent, hence there is no question of determination of what will be principal supply - as regards whether the contracts would amount to export of service since the same has to be decided on the basis of the 'place of supply', the authority is not competent to decide the same since not covered u/s 97(2) of the CGST Act; the question is not answered and the application is rejected to the said extent in terms of s.98(2) of the Act: AAR

Chambal Fertilisers & Chemicals Ltd (Dated: August 25, 2018)- Rajasthan

GST - Ruling sought on whether in the case of import of goods on CIF basis the applicant is liable to pay GST on the component of Ocean freight paid by the foreign supplier to the shipping company and whether in the case of import of goods on FOB, the applicant, for the purpose of determination of value of goods for payment of IGST, is required to exclude the value of the component of Ocean freight paid to the foreign shipping entity, on which already GST is paid by applicant, being service recipient, in order to avoid double taxation.

Held: Applicant is liable to pay IGST on transportation of goods by vessel under reverse charge mechanism (RCM) in terms of notification 10/2017-ITR and as regards the question of exclusion of any component of expenditure

upon import of goods (viz. ocean freight) while determining their value at the time of import, the same falls beyond the purview of section 97 of the CGST Act, 2017 and hence no ruling can be given thereon: AAR

Indian Oil Corporation Ltd (Dated: September 18, 2018)-West Bengal

Facts: Applicant is engaged in the activity of refining crude petroleum oil into HSD, Motor Spirit (Petrol) and ATF and no tax on its supply is leviable under the CGST/WBGST Acts, 2017 - Applicant seeks a ruling as to whether or not GST paid on the railway freight for transportation of above goods from Haldia refinery to its export warehouse at Raxaul can be availed as Input Tax Credit.

Held: ATF and other non-taxable supplies from Applicant's Haldia refinery to the export warehouse of IOCL at Raxaul are not zero rated supplies - such supplies are not export of goods in terms of s.2(5) of the IGST Act but exempted supplies from the West Bengal unit to the Bihar unit, which is a distinct person in terms of s.25(4) of the GST Act - sections 16(1)(a) and s.16(2) of the IGST Act are not applicable - applicant cannot, therefore, claim credit of the GST paid on the railway freight for transportation of ATF and other non-taxable supplies from West Bengal to the Bihar unit: AAR

Maini Precision Products Ltd (Dated: August 6, 2018)-Karnataka

GST - "Parts of Fuel Injection Pumps for diesel engines" are classifiable under Tariff Heading 8413 91 90 as per the Customs Tariff Act, 1975 and are covered under the entry no. 453 of Schedule III of Notification No.1/2017 - Integrated tax (Rate) dated 28.06.2017 and hence liable to tax at 18% under the Integrated Goods and Services Tax Act, 2017: AAR

Coffee Day Global Ltd (Dated: July 26, 2018)-Karnataka

Facts: Applicant is engaged in supply of non-alcoholic beverages to SEZ units using coffee vending machines and undertakes the following types of transactions:

a) The applicant installs beverage vending machines inside SEZ premises, prepares beverages using the vending machines & its ingredients, supplies to SEZ units which are consumed by the employees of SEZ units and charge the SEZ units based on number of cups of beverages supplied. (Cuppage billing)

b) The applicant installs beverage vending machines inside SEZ premises, supplies beverage ingredients to the SEZ units and bills based on the quantity of ingredients supplied. SEZ units prepare the beverages using the vending machines and serve them to its employees. There will not be any consideration for the usage of vending machine by the SEZ units.

Ruling sought as to whether - Whether supply of non-alcoholic beverages to SEZ units using coffee vending machines is in the nature of zero rated supply as defined under Section 16 of the IGST Act 2017?

Held: Supply of non-alcoholic beverages / ingredients for such beverages to SEZ units using coffee vending machines installed by the applicant, do not qualify as zero rated supply, as defined under Section 16 of the IGST Act , 2017: AAR

Garuda Power Pvt Ltd (Dated: June 22, 2018)-West Bengal

GST - The Applicant is engaged in trading of diesel engines & its spare parts along with services of diesel engine, either on AMC or need basis - It seeks to know whether or not supply of goods & on-site services to customers in SEZ area to any SEZ unit or SEZ developer would be zero-rated supply u/s 16 of the IGST Act 2017 - Also whether GST is leviable on supply of goods or services to SEZ unit or SEZ developer.

Held - The Applicant shall be liable to pay tax when supplying to Units and Developers of Special Economic Zones subject to the provisions of Section 16 of the IGST Act, 2017: AAR

Ruling sought as to whether - Whether supply of non-alcoholic beverages to SEZ units using coffee vending machines is in the nature of zero rated supply as defined under Section 16 of the IGST Act 2017?

Held: Supply of non-alcoholic beverages / ingredients for such beverages to SEZ units using coffee vending machines installed by the applicant, do not qualify as zero rated supply, as defined under Section 16 of the IGST Act , 2017: AAR

Aov Agro Food Pvt Ltd (Dated: April 11, 2018)-Haryana

GST - the applicant company is engaged in slaughtering & processing of poultry, sheep & goat meat - The same is supplied for export as well to the domestic market and to the Indian Army against tender - To the Army, the mutton & chicken is supplied in frozen state and is put in unsealed LDPE bags - Two such LDPE bags are put in one HDPE bag on which the weight of both is mentioned - The applicant claims that dispatches made by it in HDPE & LDPE bags both primary & secondary packing did not classify as product put in unit container under Schedule II of the Notfn No 01/IT(R) or under Schedule I of Notfn No 43/2017-IT(R) - Hence the applicant seeks to know if such supplies made by it to the Army are exempt from GST.

Held - the mutton carcass of different weight and size packed in LDPE bags without mentioning the weight & the packing of two such LDPE bags in one HDPE bag mentioning the varying actual total weight of the carcasses packed, shall not qualify as product put up in unit container - Similarly, the chicken packed in LDPE bags & the packing of 20-25 such bags in HDPE bags mentioning the actual weight will also not qualify as product put up in unit container - The two products fall under the exemption list as per Entry No 10 & 13 of Notfn No 2/2017-IT(R) & thereafter as per Entry No 9 of Notfn No 44/2017-IT(R): AAR

Gitwako Farms India Pvt Ltd (Dated: June 1, 2018)-Haryana

GST - the applicant company supplies mutton to the Army & Para Military forces - Each frozen carcass is put in LDPE bags which are sealed - One or two such bags are packed in one HDPE bag mentioning the product name, firm's name & net weight are mentioned - Hence the applicant seeks to know the

classification of such frozen meat sold in packaged form as well as its HSN code - Also the rate of tax applicable on it.

Held - the frozen animal carcass of different weights & sizes packed in LDPE bags further packed in HDPE bags will not qualify as product put up in unit container - Such products fall under exemption list as per Entry No 10 of Notfn No 2/2017-IT(R) & thereafter as per Entry No 9 of Notfn No 44/2017-IT(R): AAR