
Updates/GST/Advance Ruling/Legal-02/2022
Dt. 08/04/2022

(Advance Rulings in Gujarat from 1st January to 31st March, 2022)

Advance Ruling Branch
Gujarat State Tax Department

Rulings given by Authority of Advance Rulings (AAR)

M/s. Astral Limited

Sr. no.	Advance Ruling sought for	Ruling
1	Whether GST is applicable on amount representing the employees' portion of canteen charges, which is collected by the applicant and paid to the Canteen service provider by company at Factory.	GST, at the hands of Astral, is <u>not</u> leviable on the amount representing the employees portion of canteen charges, which is collected by Astral and paid to the Canteen service provider.
2	Whether GST is applicable on the amount representing the employee's portion of canteen charges, which is collected by the applicant and paid to the Canteen service provider by company at HO.	GST, at the hands of Astral, is <u>not</u> leviable on the amount representing the employees portion of canteen charges, which is collected by Astral and paid to the Canteen service provider.
3	If GST is applicable then, whether input tax credit (ITC) available charged by service provider on canteen facility provided to employees working in factory/HO?	Not Applicable
4	If ITC is available, whether it will be restricted, to the extent of cost borne, by the company?	Not Applicable

Ms. Mohammed Hasanbhai Karbalai

Advance Ruling sought for	Ruling
What should be the classification and applicable tax rate on the supply of Ready to Serve Fruit Beverage named as 'Apple Cola Fizzy' and 'Malt Cola Fizzy' made by the applicant under Notification No. 1/2017 – CT (Rate) dated 28.06.2017 as amended up to date?	<ul style="list-style-type: none">➤ Apple Cola Fizzy and Malt Cola Fizzy are Carbonated Beverages with fruit juice, classifiable at HSN 22021090. GST is leviable at 28% on said goods.➤ GST Compensation Cess leviable at 12% on said Goods.

M/s. Intas Pharmaceutical Ltd.

Advance Ruling sought for	Ruling
Whether GST, at the hands of the applicant, is leviable on the amount representing the employees portion of canteen charges, which is collected by the applicant from employees and paid to the Canteen Service Provider.	GST, at the hands of the Intas, is <u>not</u> leviable on the amount representing the employees portion of canteen charges, which is collected by Intas and paid to the Canteen service provider.

M/s Colourtex Industries Private Limited

Advance Ruling sought for	Ruling
Classification of TKP manufactured by Colourtex	Modified/ Un-modified TKP is classified at Tariff 1302 39 00.

M/s Global Engineering Co.

Advance Ruling sought for	Ruling
What GST rate to be charged on Marine engine falling under HSN 8402 and 8407, whether 28% or 5% (As per circular No. 52/26/201-GST dated 9-8-18).	<ul style="list-style-type: none">➤ The GST rate on Marine engines is determinable on case to case basis.➤ In cases where the applicant has conducted due diligence with KYC norms of customer such as customer in possession of certificate of registry of fishing boat/ certificate of licence of fishing boat, in such cases marine engine supplied will be part of fishing vessel, and thereby GST rate is 5%.➤ In other cases, GST rate is 28%.

M/s. SP Singla Construction Pvt. Ltd.

Advance Ruling sought for	Ruling
what is the time of supply for the purpose of discharge of GST under the CGST Act, 2017 and SGST Act, 2017 in respect of Mobilization Advance received by it for construction services provided by it?	<ul style="list-style-type: none">➤ We note that SPSC does not contest the taxability on said Advance, but is before us for its deferment from date of its receipt to date of issue of invoice. We pass the Ruling based on Section 13(2) CGST Act read with its explanation (i).➤ Time of Supply, on said Advances received by SPSC for Supply of its Service, is the date of receipt of said advance.

M/s. Intellecon Pvt. Ltd.

Advance Ruling sought for	Ruling
Whether the Entry no. 3(v) of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (the Notification), as amended from time to time, is applicable to supplies by Intellecon under the Contract I and Contract II and resultantly, whether such supplies are subjected to 12% rate of Goods and Services Tax ('GST').	The subject supplies of EPABX system for Railways is covered at entry No. 3 (v) of Notification No. 11/2017-CT (R) dated 28-6-17, as amended, and liable to 12% GST.

M/s Acme Holding

Sr.no	Advance Ruling sought for	Ruling
1	For the Job work done during F. Y. 18-19, whether the invoice raised by the applicant considered to be a valid tax invoice as per provisions of GST law?	The subject application is not maintainable for reasons recorded at para 10 to 13 and thereby rejected.
2	Whether the taxpayer is rightful to recover the tax from principal supplier of goods upon issuing a 'tax invoice' as per provision of the law subsequently?	
3	In continuation of question 2, whether the recipient can claim ITC?	

M/S. Shell Energy India Pvt. Ltd.

Sr. No.	Advance Ruling sought for	Ruling
1	Whether the Applicant's activity of providing service of re-gasification of LNG owned by its customers (who are registered under the CGST Act) to convert to RLNG, from its re-gasification terminal at Hazira Port, Gujarat would amount to rendering of service by way of job work as defined under Section 2(68) of the Central Goods and Services Tax Act, 2017 ('CGST Act')?	Shell's activity of re-gasification of LNG owned by its GST registered customers amounts to rendering of service by way of Job Work and merits to be covered at entry ('id') of Heading 9988 at Sl. No. 26 of Notification No. 11/2017-CT (rate) dated 28.06.2017, as amended, liable to CGST at 6% and SGST at 6%.
2	If yes, then whether the said re-gasification service by way of job-work be classifiable under Entry (id) of Heading No. 9988 of Sl. No. 26 of Notification No.11/2017-CT (Rate) dated 28.06.2017 as amended vide Notification No. 20/2019-CT (Rate) dated 30.09.2019 and eligible for GST at the rate of 12%?	

M/S. Tecsidel India Private Limited

Sr. No.	Advance Ruling sought for	Ruling
1	Whether the composite supply of works contract provided by Tecsidel to M/s. Adani Road Transport Ltd. shall be classified under Entry (vi) of Serial No. 3 of the Notification No. 11/2017-C.T. (R), dated 28th June, 2017 (hereinafter referred to as 'the CGST Rate Notification') liable to effective rate of GST ('Goods and Services Tax') @ 12% including CGST and GGST?	The subject supply does <u>not</u> fall under 3(vi) of said NT.
2	Whether the composite supply of works contract provided by the Applicant to M/s. Adani Road Transport Ltd. shall also be classified under Entry (iv) to Serial No. 3 of the CGST Rate Notification read with the GGST Rate Notification liable to effective rate of GST @ 12% including CGST and GGST?	The subject supply does <u>not</u> fall under 3(iv) of said NT.
3	Whether the rate of GST with respect to the services rendered by the sub-contractor to the main contractor i.e. Tecsidel would be applicable @ 12% in view of Entry (vi) and (iv) of the CGST Rate Notification read with the GGST Rate Notification or @ 18%?	As discussed at para 9.1 A to 10.3, subject supply is not covered at sr no 3(iv/vi) of said NT. Further, as per discussion at para 11.3, sr no 3(ix) of said notification is not attracted in subject case. GST is leviable at 18% vide Sr. No. 3 (xii) of Not. No. 11/2017-CT (Rate) dated 28-6-17 as amended.

M/s Texel Industries Ltd.

Sr. No.	Advance Ruling sought for	Ruling
1	Whether the product, namely, Geomembranes merits classification under Heading 5911, Sub Heading 59111000 or Sub Heading 59119090, as Textile products, coated, covered or laminated with plastic, used for technical purposes?	Geomembrane is classified at HSN 5911, tariff item 59111000.
2	Whether woven Tarpaulin manufactured by M/s. Texel merit classification under Heading 5911, Sub Heading 59111000 or Sub Heading 59119090, as Textile products, coated, covered or laminated with plastic, used for technical purposes?	Tarpaulin is classified at HSN 3926, tariff item 39269099.

M/s. Team Lease Education Foundation

Sr. No.	Advance Ruling sought for	Ruling
1	Whether, the Applicant is acting as a pure agent of the Industry partner to the extent of reimbursement received towards stipend paid to Trainees on behalf of Industry partner as part of training agreement and therefore the said reimbursement is not chargeable to GST?	TLEF is pure agent of Industry Partner to the extent of reimbursement of the <u>actual amount</u> Stipend incurred by it and thereby said reimbursement amount is not leviable to GST.
2	Whether, the Applicant is acting as a pure agent of the Industry partner to the extent of reimbursement received against cost of employee compensation insurance obtained for the benefit of Trainees by the Applicant and reimbursed by the Industry partner as per the training agreement and therefore the said reimbursement is not chargeable to GST?	TLEF is not pure agent of Industry partner for Insurance premium amount , as TLEF does not satisfy clause (d) to the explanation of Rule 33 CGST Rules. Thereby, insurance amount reflected its invoices, shall not be deducted from arriving at taxable value and thereby <u>leviable</u> to GST.

M/s. Data Processing Forms Pvt. Ltd.

Sr. No.	Advance Ruling sought for	Ruling
1	Whether from the facts and circumstances of the case, supplies made by the applicant to the Examination Boards and Educational Institution are entitled for exemption from payment of Good and Service Tax under Sr. No. 66, Heading No. 9992 (education Services) of the exemption Not. No. 12/2017-CT (Rate) dated 28-6-2017, read with Not. No. 14/2018-CT (Rate) dated 26-7-18.	The subject supplies being undertaken to State Educational Board is exempt from GST vide entry 66(b)(iv) of the Notification No. 12/2017-CT (R) dated 28-6-2017 as amended.
2	If yes, whether the applicant is entitled for refund of the taxes collected and paid into Govt. treasury so far.	Question 2 is withdrawn by the applicant. Refund is not covered under the gamut of questions to be raised vide Section 97(2) CGST Act. This Question 2 is not maintainable under Section 97(2) CGST Act.

M/s IDMC Ltd.

Sr. No.	Advance Ruling sought for	Ruling
1	Whether contract involving supply of equipment / machinery & erection, installation& commissioning services without civil work thereof would be contemplated as composite supply of cattle feed plant under GST regime? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No. 01/2017 – CT (Rate) dated June 28, 2017 (as amended).	Supply of a functional Cattle Feed Plant, inclusive of its Erection, Installation and Commissioning and related works involved for both the question 1&2, is Works Contract Service Supply, falling at SAC998732 attracting GST leviability at 18%.
2	Whether contract involving supply of equipment / machinery & erection, installation& commissioning services with civil work thereof would be contemplated as works contract service or not. If the supplies would qualify as composite supply of works contract, what would be the classification and applicable tax rate thereon in accordance with Notification No. 11/2017 – CT (Rate) dated June 28, 2017 (as amended).	

M/s. Gujarat State Road Transport Corporation

Sr. No.	Advance Ruling sought for	Ruling
1	Whether GST will be applicable on the parcels of Ashapura that are being transported by GSRTC ?	<ul style="list-style-type: none">➤ In this specific scenario presented before us, GSRTC supplies Business Support Service to its recipient.➤ SAC is 998599, covering Other Support Services n.e.c.; GST rate being 18%.➤ GSRTC is neither a GTA nor a courier agency, thus the Ruling with respect to Question (b) & (e) is thereby not applicable, in view of aforementioned Ruling at Sr. No. 1.
2	Whether GSRTC is eligible to avail exemption in terms of Sr. No 18 of Notification No 12/2017-Central Tax (Rate) whereby GSRTC is transporting parcels of Ashapura, but is neither GTA nor courier agency?	
3	What will be the rate at which GST is required to be charged by GSRTC, in case at (b) above, it is held that GSRTC is not eligible for exemption?	
4	What will be the SAC code for the transportation of goods by Road other than courier and GTA provided by GSRTC?	
5	Whether the tax, in case it is required to be paid as held in (c) above, be considered to be covered under Notification No 13/2017-Central Tax (Rate) whereby the service recipient is required to make payment of tax instead of service provider?	

Rulings given by Appellate Authority of Advance Rulings (AAAR)

M/s. Amneal Pharmaceuticals Pvt. Ltd.

Appellate Advance Ruling sought for	Ruling	
	As per Member, Centre	As per Member, State
Whether the applicant is liable to pay GST on recovery of Notice Pay from the employees who are leaving the company without completing the notice period as specified in the Appointment Letter issued as per the contract entered between Employer and the Employee?	In view of the foregoing, we confirm the Advance Ruling No. GUJ/GAAR/R/51/2020 dated 30.07.2020 of the Gujarat Authority for Advance Ruling, by holding that the appellant M/s. Amneal Pharmaceuticals Private Limited is liable to pay Goods and Services Tax at applicable rate on the amount of notice pay (liquidated damages) received from the employees leaving the job of the appellant without completing the notice period as specified in the contract entered into (Appointment Letter) between the appellant and its employees, and reject the appeal filed by M/s. Amneal Pharmaceuticals Private Limited.	In view of the foregoing, I allow the appeal filed by the appellant M/s. Amneal Pharmaceuticals Private Limited and modify the Advance Ruling No. GUJ/GAAR/R/51/2020 dated 30.07.2020 of the Gujarat Authority for Advance Ruling, by holding that the appellant is not liable to pay Goods and Services Tax on recovery of notice pay from employees who leave the company without completing the notice period as specified in the Appointment Letter issued as per the contract entered between employer and employees.
	Also, as the members of appellate authority are differing, Section 101 (3) of CGST Act, 2017 shall apply.	

M/s. Oswal Industries Ltd.

Appellate Advance Ruling sought for	Ruling
Whether the applicant is eligible to get the benefit of entry No.74 of exemption Notification No.12/2017-Central Tax (Rate) dated 28.06.2017?	We confirm the Advance Ruling No. GUJ/GAAR/R/25/2020 dated 09.07.2020 by holding that M/s. Oswal Industries Ltd. (M/s. Nimba Nature Cure Village) is not eligible to get the benefit of Sr. No. 74 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and corresponding Notification No. 12/2017-State Tax (Rate) dated 30.06.2017.

M/s. Surat Municipal Corporation

Appellate Advance Ruling sought for	Ruling
Whether the Supply made by M/s INI Studio would qualify for exemption under Entry No. 3 of the Notification No. 12/2017-CT as "Service" in relation to any functions entrusted to a municipality under article 243W of the Constitution as a "Pure Service" having no element of goods so as to construe it as "Works Contract" as defined under Section 2(119) of the Central Goods and Services Act, 2017?	We find that the present appeal is non-maintainable as per the provisions of CGST Act. In view of the foregoing, we confirm the Advance Ruling Admission Order No. GUJ/GAAR/ADN/2020/120 dated 30.12.2020 of the Gujarat Authority for Advance Ruling in the case of M/s. Surat Municipal Corporation.

M/s. Shree Arbuda Transport

Sr. No.	Appellate Advance Ruling sought for	Ruling
1	If we want to provide all above services for a “Single consolidated Rate” as a package, whether such supply would be treated as “Mixed supply” as per the provisions of Section 2(74) of the CGST Act, 2017, since the services are not naturally bundled and are capable of being provided independently? Or it shall be treated as “Composite supply”?	Such supply would be treated as ‘ mixed supply ’ as per the provisions of Section 2(74) of the CGST Act, 2017.
2	What shall be the applicable HSN code and corresponding GST Rate for such bundle of services? (Highest Rate of Service in the bundle is 18%).	The applicable HSN / Service Code (Tariff) would be 996719 and corresponding GST Rate for such ‘mixed supply’ would be the highest rate of the constituent supplies, which is presently 18% .
3	Whether the firm shall be eligible to avail ITC on the following: - Regarding GST paid on Commercial vehicles and Repair & maintenance cost of such vehicles used for transportation of goods/containers. - ITC on inward supply from CFS/Port/Labour contractor etc. related to such packaged outward supply.	Input Tax Credit on inputs, input services and capital goods cannot be denied merely on the ground that one of the constituent service of the mixed supply attracts Nil rate of tax if provided separately.
4	Whether the Exporter client shall be eligible to claim refund of the GST paid on our (appellant’s) outward supply invoices?”	This question can be answered at the end of exporter. The appellant is not entitled to raise this question.

Thanks

Note:

- a) The above rulings are available on the department's website for reference.
- b) Please contact the Advance Ruling Branch in case of any ambiguity in the above rulings.