
**Updates/GST/Advance Ruling/Legal-25-
08/2023**

Dt. 06/04/2023

(Advance Rulings in Gujarat from 1st March to 31th March 2023)

**Advance Ruling Branch
Gujarat State Tax Department**



Rulings given by Authority of Advance Rulings (AAR)

Manishaben Vipulbhai Sorathiya,
[Trade name : Autotech]

Sl. No.	Advance Ruling sought for	Ruling
1.	What is the <u>appropriate classification & rate of GST applicable on supply of PVC floor mats [Cars]</u> under the CGST & SGST?	➤ The impugned goods i.e. PVC floor mats for use in cars supplied by the applicant is <u>classifiable under CTH 8708 & applicable rate of GST would be 28%</u> [14% each of CGST and SGST]

M/s. JCP Agro Process P Ltd.

Sl. No.	Advance Ruling sought for	Ruling
1.	Whether for the <u>purchase of raw tobacco from farmer</u> [including naturally broken tobacco known as 'tobacco leaves or tobacco bhukko'] <u>is covered under reverse charge mechanism?</u>	<ul style="list-style-type: none"> ➤ In case of <u>purchase of tobacco leaves/bhukko from the agriculturist</u>, the applicant is liable to <u>pay GST on RCM basis at 5%</u> [2.5% CGST and 2.5% SGST] in terms of notification No. 1/2017-Central Tax (Rate), Sr. No. 109 of Schedule I. ➤ Applicant is liable to pay GST on forward charge basis at 5% [2.5% CGST and 2.5% SGST] in terms of notification No. 1/2017-Central Tax (Rate), Sr. No. 109 of Schedule I, <u>in respect of trading of tobacco leaves/bhukko, procured from agriculturist</u>, subject to the <u>condition that they are engaged in trading of tobacco leaves/bhukko, procured from agriculturist, on as such basis i.e. without undertaking any further process on the same</u>
2.	What would be the <u>rate of tax in case of coating process is done on unmanufactured tobacco</u> . If the <u>applicant carried out the process of coating on the tobacco belonging to other person</u> [job work basis] whether registered or otherwise.	<ul style="list-style-type: none"> ➤ In case of <u>supply of unmanufactured tobacco leaf consequent to coating the same</u> with natural edible gum, the <u>applicant is liable to pay GST at 28%</u> [14 % CGST and 14 % SGST] in terms of notification No. 1/2017-Central Tax (Rate), Sr. No. 13 of Schedule IV. However, it is made clear that in case of supply of the said coated tobacco to the customers in gunny bag with their name being printed/mentioned on the gunny bags so as to identify the lot, then the applicant would be liable to pay GST at 28% [14 % CGST and 14 % SGST] in terms of notification No. 1/2017-Central Tax (Rate), Sr. No. 13 of Schedule IV, along with 71% compensation cess in terms of notification No. 1/2017-Compensation Cess (Rate) dated 28.6.2017 (Sr. No. 5). ➤ The applicant is liable for payment of <u>GST at the rate of 12 %</u> (6% CGST and 6% SGST) in terms of notification No. 20/2019-C.T. (Rate), dated 30-9-2019 <u>on the job work process of coating, done in respect of tobacco leaves supplied by other registered persons</u>.

M/s. AIA Engineering Limited

Sl No.	Advance Ruling sought for	Ruling
1.	Whether <u>GST is applicable on the amount representing the employee's portion of canteen charges recovered/collected by the applicant from its employees</u> and paid to the canteen service provider on behalf of the employee.	<p>➤ <u>GST is not leviable on the amount representing the employee's portion</u> of canteen charges recovered/collected by the applicant from its employees and paid to the canteen service provider on behalf of the employee since it would not be considered as a supply under the provisions of section 7 of the CGST Act, 2017 and the GGST Act, 2017.</p>
2.	Whether the <u>Company is eligible to take the input tax credit for the GST charged by the canteen service provider</u> for the canteen services for its employees <u>where the canteen facility is mandatory in terms of section 46 of the Factories Act, 1948.</u>	<p>➤ <u>Input Tax Credit (ITC) will be available to the applicant on GST charged by the service provider in respect of canteen facility provided to its direct employees working in their factory,</u> in view of the provisions of Section 17(5)(b) as amended effective from 1.2.2019 and clarification issued by CBIC vide circular No. 172/04/2022-GST dated 6.7.2022 read with provisions of section 46 of the Factories Act, 1948 and read with provisions of Gujarat Factory Rules, 1963. ITC on the above is restricted to the extent of the cost borne by the applicant for providing canteen services to its direct employees, but disallowing proportionate credit to the extent embedded in the cost of goods recovered from such employees.</p>

Yogendra Bansidhar Bhatt

SI No.	Advance Ruling sought for	Ruling
1. 2. 3. 4. 5.	<p>1. Is <u>GST applicable on land or any developed plot</u> ?</p> <p>2. If GST is <u>applicable for both construction of individual bungalow and on proportionate share to common amenities</u> ?</p> <p>3. <u>How much GST paid by Vaibhav Corporation P Ltd for construction of following plot of Diamond Bungalow.</u> Where builder has different GST policies applied for different members of Diamond Bungalows. The total sales consideration was inclusive of GST ie 12% of sales consideration [2/3 value of GST on sales consideration) [sic]</p> <p>4. <u>How much Builder has paid for GST proportionate to common amenities</u> for all Diamond Bungalow plot where we are supposed to pay 25 lacs as GST ?</p> <p>5. Is there <u>any scam for GST payment by the Builer in the era of discrepancy in amount received for different plots where builder are supposed to pay GST</u> for both consutruction and against the payment for common amenesties ? [sic]</p>	<p>➤ The aforementioned <u>application stands rejected</u> in terms of section 98(2) of the CGST Act, 2017 read with sections 95(a), (c), and 103 of the CGST Act, 2017</p>

M/s. Cadila Pharmaceuticals Ltd.

SI No.	Advance Ruling sought for	Ruling
1.	Whether the <u>subsidized deduction made by the applicant from the employees who are availing food in the factory/corporate office would be considered as a 'supply'</u> under the provisions of section 7 of the CGST Act, 2017 and the GGST Act, 2017?	1. The subsidized deduction made by the applicant from the employees who are availing food in the factory/corporate office <u>would not be considered as a 'supply'</u> under the provisions of section 7 of the CGST Act, 2017 and the GGST Act, 2017.
2.	<u>If yes, whether GST is applicable on the amount deducted from the salaries</u> of its employees?	2 & 3. <u>Since the answer to the above is not in the affirmative</u> , the ruling sought in respect of <u>the second and the third question is rendered infructuous</u> .
3.	If yes, <u>on what portion GST will be applicable</u> ie amount paid by the applicant to the canteen service provider or only on the amount recovered from the employees?	4. Input Tax <u>Credit (ITC) will be available to the applicant on GST charged by the service provider in respect of canteen facility provided to its direct employees working in their factory and the corporate office, in view of the provisions of Section 17(5)(b)</u> as amended effective from 1.2.2019 and clarification issued by CBIC vide circular No. 172/04/2022-GST dated 6.7.2022 read with provisions of section 46 of the Factories Act, 1948 and read with provisions of Gujarat Factory Rules, 1963 and Gujarat Shops and Establishment (Regulation of Employment and Condition of Service) Act, 2019. ITC on the above is restricted to the extent of the cost borne by the applicant for providing canteen services to its direct employees, but disallowing proportionate credit to the extent embedded in the cost of goods recovered from such employees.
4.	Whether <u>ITC of GST charged by the canteen service provider would be eligible</u> for availment to the applicant?	

M/s. Kedaram Trade Centre

Sl No.	Advance Ruling sought for	Ruling
1.	Whether <u>one time premium received by the applicant on allotment of completed building would be treated as taxable supply</u> or not?	➤ The one time premium received by the applicant on allotment of completed commercial units/building <u>is taxable supply</u> in terms of section 7 of the CGST/GGST Act, 2017.
2.	In case the supply is treated as taxable supply, <u>what will be the applicable rate of tax.</u>	➤ The supply of the applicant is <u>classified under SAC 9972 and would be leviable to tax at the rate of 18%</u> (i.e. 9% CGST and 9% SGST) in terms of notification No. 11/2017-CT(Rate) dated 28.6.2017.

M/s. Kalepsh Dineshbhai Patel

SI No.	Advance Ruling sought for	Ruling
1.	Application of <u>GST exemption notification No. 12/2017</u> dated 28.6.2017.	➤ The aforementioned <u>application having been filed</u> by M/s. Kalpesh Dineshbhai Patel and <u>not by M/s. Khanepu Hungermall LLP who is the actual supplier and also having been filed without requisite fee, stands rejected</u> in terms of section 98(2) of the CGST Act, 2017 read with sections 95(a), (c) and 103 of the CGST Act, 2017.
2.	<u>Applicability of GST rate</u> if any.	

Rulings given by Appellate Authority of Advance
Rulings (AAAR)

M/s. Shreeji Earth Movers

Sl No.	Advance Ruling sought for	Ruling
1.	At <u>what rate of tax</u> the liability should be determined on services provided by appellant <u>(sub-contractors) to the main contractor pertaining to the irrigation, construction and maintenance works to the irrigation department, State of Gujarat?</u>	➤ We reject the appeal filed by appellant M/s. Shreeji Earth Movers and uphold the Advance Ruling No. GUJ/GAAR/R/43/2021 dated 11.08.2021 <u>i.e. GST rate on subject supply is 18%</u> for services supplied by the sub-sub-contractor to sub-contractor M/s Radhe and supply merits entry at Heading 9954, Entry No. 3(ii) of Notification No. 11/2017-CT(R) dated 28.06.2017 of the Gujarat Authority for Advance Ruling.
2.	Under <u>which head we should classify our services</u> to execute irrigation, construction and maintenance work supplied to the irrigation department, State of Gujarat?	
3.	Whether to charge a tax rate <u>of 12% GST or 18% GST?</u>	

M/s. Sankalp Facilities and Management Services Pvt. Ltd.

Sl. No.	Advance Ruling sought for	Ruling
1.	Whether the appellant is liable to pay <u>GST on manpower services provided to the Central Government, State Government, Local authorities, Governmental authorities and Government entities?</u>	➤ We <u>reject the appeal filed</u> by appellant M/s Sankalp Facilities and Management Services Pvt. Ltd., against Advance Ruling No. GUJ/GAAR/R/51/2021 dated 06.09.2021 of the Gujarat Authority for Advance Ruling and <u>find that the manpower supply by the appellant for housekeeping, cleaning, security, data entry operators etc. to various Government departments, mentioned in their application, is not eligible for exemption</u> against Entry No. 3 to Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended.

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.**