



**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 B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S.V. Kasi Visweshwar Rao, Additional Commissioner (State Tax)

A.R.Com/38/2018

Date.19-07-2021

TSAAR Order No.04/2021

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. Jeevaka Industries Private Limited, 15-9-360, Siddiamber Bazar, Mukthiyar Gunj, Hyderabad – 500 012 (hereinafter referred to as 'the applicant'), registered under GSTIN No. 36AAACJ5113G1ZY has filed an application in **FORM GST ARA-01** under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST and 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. 5000/- for CGST towards the fee for Advance Ruling. The mater was referred to the concerned Jurisdictional Officer on 21-08-2018 to offer his comments and as well as to inform if any similar issue is pending before him. So far no reply has received and hence, it is construed that, no such similar issue is pending before him. The application is therefore, admitted.

4. Facts of the Case:

1. M/s. Jeevaka Industries Private Limited are manufacturers of taxable goods i.e., sponge iron using coal based manufacturing process.
2. In the application they have averred that:
 - a. This process involves controlled burning of coal. At the end of the process, certain portion of the coal remains half-burnt (or semi-burnt) and comes along with the finished product i.e. Sponge Iron. This half-burnt portion of coal, technically called "Cinder Half-burnt Coal" / "Char- Dolachar" has negligible fuel content.
 - b. The product-mix (i.e. of Sponge Iron and char-dolachar / cinder half burnt coal along with other wastes) so obtained, is passed through a Cooler, where the temperature of the product mix is brought down to a portable temperature. The cooled product-mix is then passed through a magnetic separator, during which Sponge Iron, which is now pure metal, is separated using the magnet. The non-metallic part i.e. non-burnt coal and other wastage from the process are left aside.
 - c. The non-burnt coal so generated is sold, usually to brick producers for use in their manufacturing process.
 - d. The dust particles generated during the process are collected in Bag Filters and through ESP (Electro Static Precipitator). This is also sold to manufacturers of bricks for mixing with sand, cement etc.

5. Clarification Sought:

Based on the facts mentioned hereinafter, the applicant humbly seeks Advance Ruling on the following issues of Classification:

1. Under which HSN Code should the following goods be classified: The wastes, namely,
 - a. Cinder Half-burnt Coal / Char Dolachar and
 - b. ESP / Bag Filter Dust generated during the process of manufacturing Sponge Iron under DRI process?
2. Would the GST Compensation Cess @ Rs.400/- per tonne be applicable on sale of waste, i.e. Cinder Half-burnt coal, generated during the said process?

6. Personal Hearing

Accordingly, an opportunity of personal hearing was provided to the applicant on 29.06.2021. The Authorized representative, Neelesh Vithalani, CA & AR has filed written submissions in continuation with the application for the advance ruling and averred as follows:

1. That in light of a catena of case law, the products of a question i.e., cinder Half-burnt Coal/Char Dolachar is a residue left from coal used as fuel in the process of manufacturing of sponge iron do not qualify to be "fuel manufactured from coal – others" (under tariff item 2701 20 90).
2. That the commodities are classifiable under tariff item 2619 00 90 (Slag, Drass (other than granulated slag), scaling and other waste from the manufacture of iron or steel – others). Alternatively, it may be classified under tariff item 2621 90 00 (Other slag and ash, including seaweed ash(kelp); Ash and Residues from the Incineration of Municipal Waste – Others).

The applicant also made written submissions during the hearing wherein they have submitted a summary of their arguments as follows:

- a. Cinder Half-burnt Coal / Char Dolachar is a residue left from coal used as fuel in the process of manufacturing of sponge iron.
- b. The said product has very low caloric value and has no capacity to produce flame
- c. Therefore, it cannot be classified as "fuel manufactured from coal others" (under Tariff Item 2701 20 90).
- d. The said product is classifiable under Tariff Item 2619 00 90 (Slog, dross (other than granulated slag), scaling and other waste from the manufacture of iron or steel-Others).
- e. Alternatively, it may be classified under Tariff Item 2621 90 00 (Other Slag and Ash, Including Seaweed Ash (Kelp); Ash and Residues from the Incineration of Municipal Waste
- f. ESP / Bag Filter Dust is classifiable under Tariff Item 2619 00 90 (Slag, dross (other than granulated slag), scaling and other waste from the manufacture of iron or steel-Others).

7. Discussion & Findings:

We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri. Neelesh Vithalani, CA & AR during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. At the outset, we would like to state 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 such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the TGST Act.

1. Originally, the applicant was of the opinion that half-burnt or non-burnt coal generated in their factory was classifiable under HSN code heading "2701" and therefore liable to pay tax @2.5% under CGST/SGST Acts and also liable for cess @400/- per ton. However, in their final submission they have averred that it is classifiable under HSN code "2619 00 90" or "2621 90 00".
2. In the original application, they have requested to give a ruling on applicable rate of tax on ESP/Bag Filter dust. However, in their final submission they have averred that this is classifiable as tariff item "261 900 90".
3. The Hon'ble Apex Court of India in the case of Union Of India v. Ahmedabad Electricity Co.Ltd [2003(158)E.L.T.3] held that unburnt or partly burnt pieces of coal have no capacity to produce flame because of low or reduced calorific value and therefore classified such coal/dust as Cinder.

Further, Hon'ble CESTAT in the case of Commissioner, Central Excise and Service Tax, Hyderabad II Vs Reactive Metals of India Pvt. Ltd reported in 2018 (8) GSTL 194 (Tri-Hyd) held that by –Product Char – Dolochar emerging during manufacture of Sponge Iron is classifiable under CETH 2619 00 90. Similar stand has been taken by Hon'ble CESTAT in the case Bellary Steel &Alloys Ltd v. CCE.,[2006(199)ELT 808]. W.R.T ESP bog/filter dust, we hold that they are also classifiable under 2619 00 90.

4. In view of the above, both unburnt or half-burnt coal and dust falls under entry 28 of Schedule III of Notification No.01/2017 Dated: 28.06.2017 and attracts 18% tax under IGST and 9% under CGST/SGST Acts

ADVANCE RULING

8. In view of the observations stated above, the following rulings are issued:

Question raised	Advance ruling issued
1. Under which HSN Code should the following goods be classified: The wastes, namely, a. Cinder Half-burnt Coal / Char Dolachar and b. ESP / Bag Filter Dust generated during the process of manufacturing Sponge Iron under DRI process?	(1a) & (1b) commodities fall under HSN Code "2619 00 90"
2. Would the GST Compensation Cess @ Rs.400/- per tonne be applicable on sale of waste, i.e. Cinder Half-burnt coal, generated during the said process?	No

Sd/- S.V. Kasi Visweshwar Rao
ADDL. COMMISSIONER (State Tax)

Sd/- B. Raghu Kiran
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. Jeevaka Industries Private Limited,
15-9-360, Siddiamber Bazar,
Mukthiyar Gunj, Hyderabad – 500 012.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Chief Commissioner (Central Tax), Basheerbagh, Hyderabad

Copy to all the Joint Commissioners (State Tax), in the State.