

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai - 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Ms. P. Vinitha Sekhar, Addl. Commissioner of Central Tax, (Member)

(2) Shri A. A. Chahure, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AACCN9327L1Z0
Legal Name of Applicant	M/s. NRB HYDRAULICS PVT LTD
Registered Address/ Address provided while obtaining user id	Gala no. 8 & 9, Shubh Indt Estate, Chinchpada, Walive Road, Vasai E -401208
Details of application	GST-ARA, Application No. 27 Dated 16.07.2019
Concerned officer	PAL-VAT-C-011, Thane Rural
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	
B Description (in brief)	
Issue/s on which advance ruling required	(v) Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively] by **M/s. NRB HYDRAULICS PVT LTD**, the applicant, seeking an advance ruling in respect of the following question.

GST to be paid by whom on Scrap Generated from Labour job at our Vendor’s Place”

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST 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 MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression ‘GST Act’ would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

Applicant has submitted that they are sub-contracting the manufacture of their products to vendors on labour jobs. They have further submitted that the labour cost that is paid by them to vendors takes into account the scrap generated during the manufacturing process. Hence their payments to such vendors is partly in cheque and partly in barter (scrap generated is given to vendor as his own property). They have also stated that GST, on such scrap, is paid by the vendors. Their query is whether the procedure followed by them is as per law.

03. CONTENTION – AS PER THE CONCERNED OFFICER:

No submissions have been made by the jurisdictional officer.

04. HEARING

Preliminary hearing in the matter was held on 05.11.2019. Shri Noshir Bulsara, Director of the applicant company appeared, and submitted that the applicant's products are manufactured by other persons, on sub-contract. He submitted that he wanted to know as to who would pay GST on the scrap generated during the manufacture of the said goods by the sub-contractor.

Jurisdictional Officer Shri Ravindra Bhosekar, STO (C-011), Bhayandar Division, Palghar, also attended the hearing.

05. OBSERVATIONS AND FINDINGS:

5.1 We have gone through the facts of the case, documents on record and submissions made by the applicant as well as the jurisdictional office.

5.2 We find that applicant is registered person under GST Act. The query of the applicant is:- "*GST to be paid by whom on Scrap Generated at our Vendor Place, to whom work of Labour Job is given.*"

5.3 It is seen that the applicant is getting products manufactured on sub-contract basis from vendors. These vendors are paid labour charges by the applicant. During the process of manufacture by the said vendors, scrap is generated. The applicant has submitted that the labour charges paid by them to vendors are less than the actual labour charges payable. This difference, as per their submissions, is the value of the scrap generated. Hence it is seen that part of the labour charges are paid by cheque and part, by way of barter of scrap. The applicant has also submitted that the scrap becomes the property of the vendors as per their understanding.



5.4 This authority is governed by the provisions of Chapter XVII of CGST ACT & the relevant Sections 95 to 98, 102, 103, 104 and 105. As per Section 95, the term 'advance ruling' means a decision provided by this authority to the applicant on matters or questions specified in Section 97(2), in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. As per provision of section 95 of CGST ACT, **this authority can give a ruling to the applicant on matters or questions raised, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.**

5.5 The applicant have themselves submitted that the scrap is the property of the vendors. Hence question with respect to taxability of sale/supply of such scrap can be raised only by the concerned vendors and not by the applicant. Hence in view of the provisions of Section 95 of the GST Act, since the supply of scrap, will not be undertaken/is proposed to be undertaken, by the applicant, we are of the opinion that this authority is not allowed to answer the question raised by the applicant, being out of the purview of Sec. 95 of CGST Act.

06. In view of above findings, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 27/2019-20/B- 120 Mumbai, dt. 03/12/2019

For reasons as discussed in the body of the order, the questions are answered thus –

The application for advance ruling is rejected, as being non-maintainable.



— sd —
P. VINITHA SEKHAR
(MEMBER)

— sd —
A. A. CHAHURE
(MEMBER)

CERTIFIED TRUE COPY

CA Rohan

**MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI**

Copy to:

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.