

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) Shri. Rajiv Magoo, Joint Commissioner of Central Tax, (Member)

(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

ARN No.	AD2706200018873
GSTIN Number, if any/ User-id	27AAFEN7317R1ZR
Legal Name of Applicant	M/s. NAVRATNA SHIPPING PRIVATE LIMITED
Registered Address/Address provided while obtaining user id	36, Tarvoti Bhavan 203, 3rd Floor, P.D. Mello Opp. ST GEORGE HOSP, Mumbai City-400038
Details of application	GST-ARA, Application No. 24 Dated 09.09.2020
Concerned officer	Division V, Commissionerate- Mumbai South
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	Applicant provides the service of Coastal and transoceanic (overseas) water transport services of goods by vessels, tankers, bulk cargo vessels, container ships etc
Issue/s required on which advance ruling	<ul style="list-style-type: none">Classification of any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.



NO.GST-ARA- 24/2020-21/B- 39

Mumbai, dt. 31.03.2022

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. NAVRATNA SHIPPING PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following questions:

- 1. The tax rate for providing service of Coastal and transoceanic water transport**
- 2. Whether input Credit of Goods & Service can be claimed?**

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 FACTS:

Applicant Submission dated 28.12.2021:

2.1 *Navratna Shipping Pvt Ltd, the applicant, a registered Company in Mumbai in the year 2017 is purely dedicated in shipping activities within Indian Ports (Indian Coastal Movement of cargoes via Sea) and takes contract from their clients who are big Industrial and trading houses registered in India to move their raw material which is mainly in bulk, from one Indian Sea port to another Indian Sea port i.e from the mines to their plant.*

2.2 *The commodities are mainly iron ore fines, Iron ore Pellets, Bauxite, Salt, Cement clinker which are moved in a parcel size of 25,000 metric tonnages upto 55,000 metric tonnes. To move such cargo, a special license has to be taken from the Director General of shipping prior to commencement of loading of such cargo.*

2.3 *Applicant has to pay various cost such as Port charges at load and disc port, duty on the bunkers (fuel) used during this voyage and Charter Hire/Ocean Freight. Basically, applicant transports the cargo by Ships from one Indian Port to another Indian Port. Loading and Unloading is done by the Party/ Clients. This business is also known as Indian cabotage or domestic shipping.*

2.4 *One of the contract, applicant had with M/s. Arcelor Mittal Nippon Steel India Ltd dtd 26th Feb 2020 was to move Iron ore pellets in bulk (qty: 63,250 mts) from Paradip Sea Port, East coast of India to Hazira Sea Port, West Coast of India. In this case Loading and Unloading is done by Party / Clients and also Port Charges were paid by them. Since this was an Indian Cabotage movement which comes under "Coastal Water Transport Service by bulk vessel" applicant raised an Invoice with 18% GST as per SAC code 996521. Applicant's client denied to pay the same as contested that the applicable GST rate is 5% instead of 18% for such services.*

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The jurisdictional officer has not made any submissions in the matter.

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 13.07.2021. Authorized representatives of the Applicant, Shri. Anthony Thomas, Shri. Chirag Darji, CA and Shri. Minesh Rathod were present. Jurisdictional officer Shri. Prakash Kumar, Superintendent, Division-V, Mumbai South was also present. The Authorized representative made oral submissions with respect to admission of their application.
- 4.2 The application was admitted and called for final e-hearing on 28.12.2021. Authorized representatives of the applicant Shri Anthony Thomas Vaz and Shri. Minish Rathod, Director were present. Jurisdictional officer Smt. Nivedita Nair, Superintendent, Division-V, Mumbai South was also present. The jurisdictional officer was asked to file written submission within a weeks' time. The Applicant was asked to produce relevant records, details, vouchers of sale-purchase & correspondence, agreements or other proof in support of contentions made. Application is heard.

05. DISCUSSIONS AND FINDINGS:

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

The subject application is in respect of contract dated 26.02.2020 entered into, by M/s Navratna Shipping Private Limited with M/s Arcelor Mittal Nippon Steel India Ltd to move Iron ore pellets in bulk (qty: 63,250 mts) from Paradip Sea Port, East coast of India to Hazira Sea Port, West Coast of India. The applicant considered the activity as falling under "Coastal Water Transport Service by bulk vessel" and raised an Invoice with 18% GST as per SAC code 996521.

- 5.3 The application is filed because the Applicant's client has denied to pay the applicant GST @ 18% and has stated that the applicable GST rate is 5% instead of 18% for such services.
- 5.4 From the submissions made by the applicant, we find that in respect of the impugned contract 26th Feb 2020, the applicant has already completed the activity of moving Iron ore pellets in bulk (qty: 63,250 mts) from Paradip Sea Port, East coast of India to Hazira Sea Port, West Coast of India, since the applicant has stated that Loading and Unloading is done by Party / Clients and also Port Charges were paid by them. Further, the applicant has submitted that, it raised an Invoice with 18% GST on M/s Arcelor Mittal Nippon Steel India Ltd and therefore as per our understanding, the supply has already been completed well before the date of submission of the subject application seeking the ruling.



5.5 This authority is governed by the provisions of Chapter XVII of CGST ACT, 2017 and the relevant Sections are 95 to 98, 102, 103, 104 and 105.

As per Section 95, the term '*advance ruling*' means a decision provided by this authority to an applicant on matters or questions specified in subsection 2 of Section 97, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

5.6 Therefore, before we decide the question raised by the applicant in this application, it is essential that we first determine whether or not the activities undertaken by the applicant pertains to the supply of goods or services or both, being undertaken or proposed to be undertaken by the applicant.

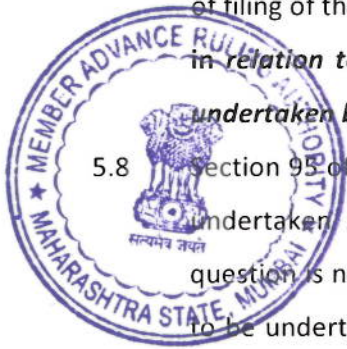
5.7 From a perusal of the submissions made by the applicant, it is clear that the impugned supply, in respect of which the subject question is raised, has already been completed before the date of filing of the subject application and therefore it can be said that the impugned question is not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

5.8 Section 95 of the CGST Act, 2017 allows this authority to decide the matter in respect of supply undertaken or proposed to be undertaken by the applicant. We find that the impugned question is not in respect of supply of goods or services or both, being undertaken or proposed to be undertaken by the applicant, rather the impugned question is in relation a supply which has already been rendered before the date of filing of the subject application. Thus, the condition under Section 95 is not satisfied by the applicant and hence, the issue cannot be decided by this authority and therefore, the subject application is held to be non-maintainable. Hence, we do not discuss the merits of the case.

5.9 Further, during the course of the final e-hearing held on 28.12.2021, the Authorized representatives of the applicant, were requested to produce relevant records, details, vouchers of sale-purchase & correspondence, agreements or other proof in support of contentions made, to explain tax treatment being adopted by applicant at present and to make submissions. However, the applicant has not submitted the relevant documents.

5.10 In view of the above we find that the present application seeking ruling on question stated hereinabove is not maintainable and liable for rejection.

06. In view of the above discussions, we pass an order as under:



ORDER

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

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

For reasons as discussed in the body of the order, the subject application for advance ruling made by the applicant is rejected under the provisions of Section 95 of the CGST Act, 2017.




RAJIV MAGOO
(MEMBER)


T. R. RAMNANI
(MEMBER)

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. The 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. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.