

TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, IstFloor, No.1, Greams Road, Chennai-600 006.

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS, Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai.

And

2.Thiru KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A.,
Joint Commissioner (ST) / Member
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

ORDER No. 53 /ARA/2019 Dated: 25.11.2019

GSTIN Number, if any / User id		33AAECR5209H1ZL
Legal Name of Applicant		M/s. RB Shah Enterprises India Private Limited
Registered Address / Address provided while obtaining user id		44/28, Ekambareshwarar Agraharam, Mahveer Market, 1 st floor, Chennai – 600 003
Details of Application		GST ARA – 001 Application SI.No.19 dated 24.05.2019.
Concerned Officer		State :The Assistant Commissioner (ST), Mooremarket Assessment Circle, Wavoo Mansion, 48/39, Rajaji Salai, Chennai- 600 001 Centre : Chennai-North Division: Egmore
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provider
B	Description (in brief)	The applicant is engaged as a consultant & guiding the Importers & Exporters for various services related to Customs, JDGFT, CLA, etc. They organize/ use duty credit scrips while rendering consultancy services. Duty credit scrip are GST exempted and the applicant seeks to know the appropriate rate of GST for the services rendered
Issue/s on which advance ruling required		Determination of liability to pay tax on the services rendered

Question(s) on which advance ruling is required	What is the applicable rate of GST for the mentioned service provided for a whole sum price
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Note: Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub-Section (1) of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. R.B. Shah Enterprises India Pvt Ltd, 44/28, Ekambareshwarar Agraharam, Mahveer Market, 1st floor, Chennai – 600 003(hereinafter referred as the applicant) is registered under the GST Act 2017 vide GSTIN No. 33AAECR5209H1ZL. The Applicant has sought Advance Ruling on the following question:

What is the applicable rate of GST for the mentioned service provided for a whole sum price

The applicant submitted a copy of challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they are engaged in the business as a consultant rendering services in the field relating to Import-Export compliances to customers with State and Central Office under Customs, Ministry of Finance & Commerce and for the applications to DGFT, Udyog Bhavan, Application Digital Keys, etc along with facilitating advisory on duty remittance, advice on adoption of Tax model(s) with procurement of various transferable incentives and providing assistance services in related area of Import/ Export of goods/services. They also provide services of indoctrination (Training session) explaining the benefits on Advisory relating to accounting & payment method in respect of imports, assistance in organizing transferable incentives/credits and in some cases if required application and related Digital indoctrination, redemption/ utilization/ obtaining/

Surrendering/ advisory on filing import bill of entry/ liaison to custom / application of duty credit or to exploit under customs act & Foreign Trade Policy.

2.2 The applicant has stated that they provide services in relation to guidance to customers for procedure with respect to custom clearance, guiding the exporters to obtain transferable incentives from applicable departments and to the importers for utilization of similar transferable incentives, submission of required documents for filing Bill of Entry, etc in relation to the same and other custom related services. For providing the above, they use the transferable incentives, purchased from the vendors. They charge the consultancy charges a whole sum fees for the service rendered including the sum for the transfer of incentives/bonds to the customers. They are not merely involving in trading transferable incentives/credits/bonds etc..In case of trading of duty credit scrips they do not charge GST as the same is exempted vide Notification No. 35/2017-Central Tax(Rate) dated 13.10.2017. They also assist the customers in utilization of bonds, guiding and advising the customers about the incentives, assists in registering in some case, verifying & transferring of the bonds, filing of Bill of Entry, Liaising in relation to the same and other related services. They charge in the invoice the consultancy charges as a whole for the cost of incentives and consultancy and other service provided. The one lump sum consideration amount received from the customers consists for the consultancy and service rendered along with price for the duty credit/transferable incentives at premium. The service portion forms substantial part and the incentive value is supplementary charge. With effect from 13.10.2017, Notification No. 35/2017-Central Tax(Rate) exempts Duty credit from the levy of GST, however the consultancy charges continue to get taxable under GST at the rate of 18% under Service Accounting Code 9982. In the scenario, the applicant seeks advance ruling with respect to whether the services provided are composite in nature and the applicable rate of GST charged for the consideration received from the customers for the said service provided.

3.1 The applicant was extended an opportunity to be heard in person on 19.06.2019 and was heard. They gave a written submission. They stated that they are selling duty credit scrips to their clients' along with certain services such as helping in utilization of the scrip for import, redemption of the scrip. The invoice is single based on the clients' requirement. They give an annexure to the invoice indicating the scrip No/ bond No and face value of scrip. They purchase the scrip

at a discount on face value and sell with some profit. They do not specify the split in value for the scrip and other services. They stated that it is a composite supply and principle supply is service and hence totally chargeable to 18% GST. The scrip alone is exempt now under Notification. They stated that they will submit the linked documents of Purchase Order (agreement), communication/correspondences for the various services rendered and write-up on activity done in 2 weeks. They also stated that they do not file the Bill of Entry but undertake to help assessee in filing Bill of Entry. The State Jurisdiction Officer reiterated her written submissions.

3.2 In the written submissions filed by the applicant during the personal hearing, they had enclosed copy of the Advance Ruling Application form, Intimation of Personal Hearing, Corporate Profile of the applicant, specimen copies of Invoices Issued by them, specimen copies of the Invoices Received by them, Copies of latest GST Returns, Copy of Section 2(30) and 2(74) of CGST ACT 2017, Copy of CBEC Flyer on Composite Supply and Mixed Supply and Copy of Notification No. 35/2017-Central Tax (Rate).

4. As undertook during the Personal Hearing, the applicant filed the additional submissions on 3rd July 2019. The applicant filed copy of the covering letter and list of services provided to the recipient, copy of Service Order, copy of License, Copies of Invoice Issued by them, Copies of data Entry Services provided, copy of Document Management Services provided, copy of customs Ledger Copy and Copy of the Exclusive List of their services.

4.1 The applicant has stated that the Mechanism of Transaction is as follows: Client Company call them regarding their requirements, the applicant offer their services with rates on the same call along with the additional services which client company didn't add in their requirement, client company agree to the rates and on the services required and released a service order to the applicant and the service starts after the acceptance of the order. The applicant has furnished the details of the service provided as follows:

- Customs and DGFT compliances: Liaising with departments, advocacy and related issues for the queries relating to those particular consignments
- Contract of duty credit scrips facilitation & its accountability: They facilitate the service of sourcing the license at constant rate with agreement with

following terms (a) Fixed Premium (b) Liability of Scrip Usage. Full accountability with details like (c) Licence status at DGFT; (d) Licence status at ICEGATE; (e) Customs ledger copy of licence

- Documents preparation: Documents like annexure, Bank attested transfer letters, Excel sheet and Checklist.
- Document Management System(DMS): (a) Storage of Hard Copies – They maintain all the documents in different files with approved manner by clients for their future use; (b) Soft Copies – We store digital scan of all receipts, Bonds, Total Transfer Letter Chain, Shipping Bill records of Bonds, Invoice of Purchase & Sale, Ledgers, Authentication documents from DGFT and ICEGATE of Bonds; (c)Data Entries – Licence number, Lic Date, Value, Licence Type, Licence Category, Port Code, Bank details like Name, Address, Signatory details like Name, Employee Code on Transfer letters, Export name, address, Contact details, Email ID, IEC Code and in some cases they also record export item details and segments as required by their clients
- Advocacy: They give services like RTI Drafting, application and follow ups to get various information from departments or companies for their marketing purposes, legal issues, etc
- Technical Support:- They provide all the technical support with DGFT server, NIC, ICEGATE server, queries & supports related to Java as it is very frequently required while using ICEGATES, DGFT etc
- Digital Key application: They apply digital keys for their clients
- Import – Export Data: They provide import and export data of their required segments with updates and reports with information on price, quantity, buyers, suppliers, market opportunities, competitor shipments, trading partners, suppliers and strategies
- Daily updates on GOI Policies under Ministry of Commerce & Finance

4.2 The applicant has furnished copy of the Service Order in respect of M/s. Sitaram Shipping Services, wherein the details of services offered are services of Customs and DGFT compliances along with Contract of duty credit scrips facilitation & its accountability, documents preparation related to duty payments like Bill of Entry, etc., Document Management system(DMS i.e., Storage of Hard copies, Soft Copies and Data Entries), Goods transport track, redemption of scrips and refund of additional duties from Customs, if any. The details along with SAC are as follows:

1. Document management solution – sac 998415/998595- 18% GST
 - a. A metal locker with different size provided as per requirement
 - b. Virtual Data Room
 - c. Data Entry of each supplied goods/Bonds in Excel
2. Installment of JAVA in client system & maintenance for the same till the contract period –SAC 998434/998316 -18% GST
3. Subscription of Daily Updates(Broadcasting) – SAC 998466 – 18%GST
4. Facilitated Duty credit scrips – HSCODE 4907 –0% GST
5. Business Consulting Services –SAC 998312 -18% GST
6. RTI –Other legal service 998216- 18%GST

In this case the applicant has obtained a MEIS duty scrip of amount Rs 38382/- from an exporter by transfer, permitting the applicant to import and utilize the scrip. The applicant has in turn re-transferred the scrip to M/s Sitaram Shipping services of the same value of scrip. It is seen from the relevant invoice that the 'Description of Service' is stated as 'Management & advisory for Customs Import Duty remittance, DMS Solutions, Digital Key Issuance, DGFT applications & DCS facilitating Services' and billed for total value of Rs.37615/- plus 18% GST with SAC 9982. The invoice mentions the Exporter IEC as mentioned in the scrip and the 'facilitated value' which is the utilizable value of the scrip. i.e Rs 38382/- . it is seen from the inward supply invoice where the applicant has procured the MEIS scrip from the exporter that description of goods is 'import licences transferred ' of duty credit value of Rs 38382/- but the value of goods charged to the applicant is only 90% of that i.e Rs 34543/- with HSN 4907 No GST is charged

5. The remarks of the State Jurisdictional Officer on the question raised by the applicant in the ARA application are detailed below:
 - i. Many of the customers engage for the services and incidentally the scrips are used while rendering the services. And in such situations the foregoing services are to be provided as a single offering of Consultancy service, failing which the provision of service will not be meaningful
 - ii. The service recipient pays single price regardless of the services within the package, applicant is obliged to provide all services including the technical or personal expertise of the consultant and usage of scrips.
 - iii. Consultancy service, consisting of technical or personal expertise of the consultant and the usage of scrips is supplied together to the client, in

conjunction as one bundle of service. Conjunction means “Condition of being joined”

iv. Therefore, supply of Consultancy service by the Applicant consisting of technical or personal expertise of the consultant and usage of scrips will have to be construed as a supply of composite service made by the applicant as these services are naturally bundles and supplied in conjunction with each other in the ordinary course of business, one of which (i.e. technical or personal expertise of the consultant) is the principal supply.

6. We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made and the comments furnished by the State Jurisdictional Officer. We find the applicant has filed the application seeking ruling on determination of the liability to pay tax on the services rendered by them in the given circumstances. The issues raised are within the purview of the Advance Ruling under Section 97 (2) of the GST Act and accordingly, the application is taken up for consideration. It is seen that the applicant is an all round consultancy company providing all sorts of technical help, documentary support and allied advisory services on matters relating to foreign trade, Customs duty & Excise duty along with expert advice & consultancy related to the Ministry of Finance & Commerce. It is stated that the applicant is entering in providing a one stop solution, which is a new concept in which they offer Document Management Solution, Installation of JAVA in client system & maintenance till the contract period, Broadcasting, Business Consulting Services and RTI-other legal service along with procuring and supplying Duty Credit Scrips, The applicant has claimed that the consultancy services provided with respect to duty credit scrips and the usage of scrips for the services rendered are two supplies and are naturally bundled and it is a composite supply. The applicant has sought ruling on whether the services provided along with the duty credit scrip are composite in nature, the principal supply being service rendered or usage of scrip and the applicable rate of GST charged for the consideration received from the customers for the said services provided

7.1 **Section 2(30) of CGST Act, 2017** defines Composite Supply as:

“composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or

both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Section 2(74) of CGST Act, 2017 defines mixed Supply as:

(74) "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

The applicant supplies consultancy services to the clients relating to the Customs/DGFT/other statutory requirements for import of goods. by advising, updating on the incentives available, facilitating for the same, documents preparation related to duty payments, tracking of the goods, etc . In the instant case they provide along with Contract of duty credit scrips facilitation & its accountability, documents preparation related to duty payments like Bill of Entry, etc., Document Management system(DMS i.e., Storage of Hard copies, Soft Copies and Data Entries), Goods transport track, redemption of scrips and refund of additional duties from Customs, if any. The service order is to support in the compliance of Customs and DGFT up to the clearance including credit scrips facilitation. This involves procuring the duty credit scrip from an exporter and supplying it to the client of the applicant .We find that the stated services are supplied along with supplying of the duty credit scrip as seen in the invoice and service order. The applicant is billing the client for a single lumpsum payment. The applicant states that these supplies are naturally bundled together. However, that is not the case. It is seen that the duty credit scrip is purchased by the applicant by means of transfer, which means that the scrip belongs to the applicant and he can import goods against the scrip if he chooses so. The applicant further re-transfers the scrip to his client. Both these activities are to be done through the systems put in place by DGFT. These activities are independent of the activities of data management or consultancy services that the applicant offers. The applicant can very well supply only the duty credit scrip by buying it and re selling it or only act as a consultant for the transaction by identifying the seller of the scrip and getting it transferred in the name of their client. Data management activities assisting the client in clearance of goods from customs can also be performed without a supply of duty credit scrip. Hence, such supply of services along with the duty credit scrip as in the service order furnished by the applicant in the case of Sitaram Shipping Services is not naturally bundled together and is not a composite supply. These are several individual supplies which are made in conjunction with

each other as specified in the service order by the client at a single price but is not a composite supply. In effect, they are mixed supplies.

7.5 Section 8 of CGST ACT and TNSGST ACT states:

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

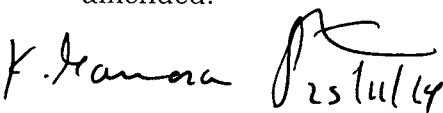
(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

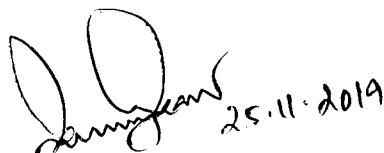
In the instant case the mixed supply consists of the supply of duty credit scrip and supply of various services of data management , consultancy , legal services etc. The supply of duty credit scrip HSN 4907 is exempt as per Sl.No. 122A of Notfn. No. 2/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No. 35/2017-C.T.(Rate) dated 13th October 2017 and Sl.No. 122A of Notfn. No.II(2)/CTR/532(d-5)/2017 G.O. (Ms) No. 63 dated 29.06.2017 as amended by G.O. (Ms) No.133, dated 13.10.2017 . The various services that the applicant is supplying of SAC 998216/998312/998415/998434/998466/998595 etc mentioned in para 4.2 above are all taxable at 9% CGST vide Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended and at 9% SGST vide Notification No. II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended. Therefore, as per Section 8 of the ACT, the rate of tax of this mixed supply which is billed at a single price is the rate of the highest rate of the services supplied which is 18%.

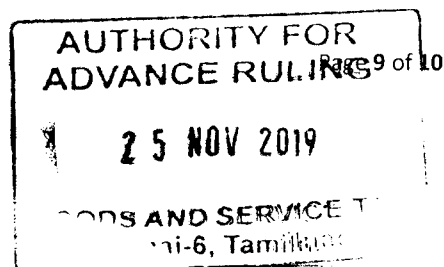
8. In view of the foregoing, we rule as under

RULING

The supplies made by the applicant as enumerated in the service order of M/s. Sitaraman Shipping Service furnished before us are 'Mixed supply' and the rate of tax is the highest rate applicable to the various services supplied by the applicant which is 9% CGST as per Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended and 9% SGST vide Notification No. II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.


Ms. Manasa Gangotri Kata, IRS
Member, CGST


Shri Kurinji Selvaan V.S.
Member, TNGST



To

R.B.Shah Enterprises India (P) Ltd
44/28, Ekambareswarar Agraharam(Mint Street)
Mahaveer Market, 1st Floor,
Chennai- 600 003

//By RPAD//

Copy submitted to :-

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam,
Chennai – 600 034.
2. The Additional Chief Secretary / Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

3. The Commissioner of GST &C.Ex.,Chennai NorthCommissionerate.
4. The Assistant Commissioner (ST),
Mooremarket Assessment Circle,
Wavoo Mansion, 48/39, Rajaji Salai,
Chennai- 600 001.
5. Master File / spare – 1.