

ODISHA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX (GST)
RAJASWAVIHAR, BHUBANESWAR-751007(ODISHA)
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S.98 OF THE GOODS AND SERVICE TAX ACT, 2017

Members Present:

1. Sri Abhay Gupta, IRS, Additional Commissioner, Office of the Chief Commissioner, GST, Central Excise & Customs, Bhubaneswar
2. Sri Nihar Ranjan Nayak, Additional Commissioner, Office of the CT& GST Commissionerate Odisha, Banijyakar Bhawan, Cantonment Road, Cuttack-753001- Odisha.

Name and Address of the Applicant	M/S EFC Logistics India Pvt Ltd At Mahatab Road, Cuttack, 753012
GSTIN or User ID	21AABCE3742R2Z1
Date of Filing of Form GST ARA-01/ Date of submission of required documents	01.02.2024
Present for the Applicant in the Personal hearing.	Vikash Kumar Rateria, CFO
Date of Personal Hearing	23.04.2024

ORDER NO.08/ODISHA-AAR/2023-24/DATED

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Policy

Subject:M/S EFC Logistics India PvtLtd (herein after referred to as the 'Applicant')having principal place of business/registered office/corresponding address At Mahatab Road, Cuttack, 753012 bearing GSTIN 21AABCE3742R2Z1 has filed an application for advance ruling under Section 97 of CGST Act, 2017 and Section 97 of the OGST Act, 2017 in FORM GST ARA-01 discharging fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

1.0 The Applicant has sought ruling in respect of the following questions:

- (a) Whether the supplier, being the owner of the vehicle itself, can charge GST on rental/hiring services under the Forward Charge Mechanism. Even though his service is exempted.
- (b) If the answer to question above is "yes", whether the Applicant being a Goods Transport Agency, be able to claim the Input Tax Credit in terms of Section 16 of GST Act 2017,(hereinafter to be refer as CGST/OGST Act), on the basis of suppliers invoices

1.1 At the outset, we would like to make it clear that the provisions of both the CGST Act and the OGST 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 provision under the OGST Act.

2.0 Submission of the Applicant

2.1 The Applicant M/S EFC Logistics India Pvt Ltd, Office atMahatab Road, Cuttack,753012 is a GTA registered under the provisions of Section 22 of the CGST Act,2017. The Applicant isengaged in providing transport service to M/s Rungta Mines Ltd. and opted to



- pay GST @12% under the Forward Charge Mechanism with input tax credit.
- 2.2 The Applicant is planning to enter into an agreement with M/S Govinda Transport Private Limited who is a supplier/owner of vehicle. The Applicant intends to take vehicle on rental basis from Govinda Transport Private Limited. The rental will be inclusive of the Fuel, Toll , salary of Driver, Repairs and Maintenance of the Vehicle and any other ancillary expenses related to the vehicle.
- 2.3 The Applicant submitted that services by way of giving on hire to a GTA, a means of transportation of goods are exempted in view of Entry No. 22(b) of Notification No. 12/2017-Central Tax(Rate) dated 28.06.2017. Being a GTA, service provided by M/s Govinda Transport Private Limited by way of hiring/renting of vehicles/trucks to the Applicant is exempted from payment of GST and hence, the supplier is not entitled to charge GST .
- 3.0 The personal hearing was fixed on 23.04.2024 under due intimation to the Applicant, the jurisdictional officer of State GST & jurisdictional officer of Central GST (intimated through their respective Commissionerates along with a copy of the application and the written submission of the Applicant). The Applicant through its representative ShriVikash Kumar Rateria, CFO appeared for personal hearing. Shri Rateria re-iterated the submission already furnished in the application filed for advance ruling. The Revenue has neither submitted its comments nor appeared for personal hearing.
- 4.0 We have gone through the advance ruling application, questions on which advance ruling has been sought and the Applicant's interpretation of law and/or facts, as the case may be, in respect of the questions asked.
- 4.1 The Applicant is a Goods Transport Agency (GTA) who provides service in relation to transport of goods by road and issues



consignment note. The Applicant has sought ruling in respect of the following questions:

- (a) Whether the supplier, being the owner of the vehicle itself, can charge GST on rental/hiring services under the Forward Charge Mechanism. Even though his service is exempted
- (b) If the answer to question above is “yes”, whether the Applicant being a Goods Transport Agency, be able to claim the Input Tax Credit in terms of Section 16 of GST Act 2017,(hereinafter to be refer as CGST/OGST Act), on the basis of suppliers invoices

4.2 First question is asked as to whether a supplier of service can charge GST on rental/hiring services under the Forward Charge Mechanism to the Applicant. This question of chargeability on inward supply of services appears to be not maintainable in view of the Section 95(a) of the CGST Act, 2017. As per the said section, ‘advance ruling’ means a decision provided by the Authority or the Appellate Authority (or the national appellate authority) to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100(or of section 101 C), **in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.** In the instant case, no supply in respect of renting/hiring of vehicles is undertaken or proposed to be undertaken by the Applicant. So, no ruling can be pronounced in this regard.

4.3 As regards the question whether, the Applicant is eligible for ITC of GST paid on rental/hiring services, We see that Section 16 of the CGST Act lays down the eligibility and conditions for taking input tax credit which is reproduced as under:

“Eligibility and conditions for taking input tax credit.— (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be



entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person”.

As per Section 16(1) of the Act, every registered person is entitled to take ITC charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. In the present case, it is seen that the Applicant is engaged in providing transport service and opted to pay GST @12% under the Forward Charge Mechanism. So, ITC can be admissible to the Applicant subject to fulfilment of conditions and restrictions as specified in Section 16 of the CGST Act, 2017.

5.0

RULING

- (a) **Q.1** Whether the supplier, being the owner of the vehicle itself, can charge GST on rental/hiring services under the Forward Charge Mechanism. Even though his service is exempted.

Ans: The question is not maintainable in view of the Section 95(a) of the CGST Act, 2017.


- (b) If the answer to question above is “yes”, whether the Applicant being a Goods Transport Agency, be able to claim the Input Tax Credit in terms of Section 16 of GST Act 2017,(hereinafter to be refer as CGST/OGST Act), on the basis of suppliers invoices.

Ans: The Applicant being a registered person under GST may be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his



business subject to fulfillment of conditions and restrictions as specified in Section 16 of the CGST Act, 2017.

- 6.0** The Applicant or jurisdictional officer, if aggrieved by the ruling, may appeal to the Odisha State Appellate Authority for advance ruling under Section 100 of the CGST/OGST Act, 2017 within 30 days from the date of receipt of the advance ruling.


(Abhay Gupta)
Member, CGST




(Nihar Ranjan Nayak)
Member SGST
24.5.2024

C. No. V (30)19/ ARA/ODISHA/BBSR/2023/19 / 12941A Dated: 27/5/24
To

M/s. EFC Logistics India Pvt Ltd At Mahatab Road, Cuttack, 753012 Copy
forwarded to:

1. The Principal Commissioner, CGST & Central Excise, Bhubaneswar
Commissionerate, Bhubaneswar.
2. The Commissioner, CGST & Central Excise, Rourkela
Commissionerate, Rourkela.
3. The Commissioner, SGST Odisha, Baniyakar Bhawan, Old Secretariat
Compound, Cuttack-753001, Odisha.
4. Office copy.