

GIB/KN/N Ranga Rao/18.09.2019/AAR-333

Advance Ruling Category : Input Tax Credit

State : Karnataka

Order No.: GIB/KN/N Ranga Rao/18.09.2019/AAR-333

Name of Entry :

M/s. N Ranga Rao & Sons Pvt. Ltd.

Date : 18-09-2019

Brief Issue :

Facts & Issue Of The Case :

The applicant is a partnership firm registered with GSTIN 29AAECN8103G1ZH involved in manufacturing of incense sticks, Dhoops, Air fresheners, Pooja kits. He is using raw materials such as raw agarbathis, aroma materials, packing materials like plastic granules, paper and paper board as inputs and services such as marketing and distribution service, manpower service, job work service and rental services, freight and forwarding services as input service has filed an application under Section 97 of CGST Act, 2017, KGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.

The applicant, seeking an advance ruling in respect of the following issue:

- (a) Whether the applicant is eligible to claim refund of accumulated input tax credit on both inputs and input services where a scenario of inverted duty structure exists?
- (b) Whether the provisions of **Notification No. 21/2018-Central Tax dated April 18, 2018** and **Notification No. 26/2018-Central Tax dated June 13, 2018** are applicable to the applicant?

the applicant filed additional submissions stating that the applicant had filed application before the appropriate jurisdictional authority seeking refund of taxes paid on both inputs and input services and the appropriate authority had rejected the claim of refund of taxes paid on input services by relying on **Notification No. 21/2018-Central Tax** prohibiting grant of refund of taxes paid on input services. He stated that nowhere in the rejection orders passed by the authorities, has a reference been made to the applicability or non-applicability of **Notification No. 26/2018- Central Tax** and therefore the present application filed by the applicant is admissible.

The applicant argues that an application for advance ruling may be filed only if the matter has not already been adjudicated upon and in the instant case, since no reference has been made to **Notification No.26/2018-Central Tax** in any of refund proceeding pertaining to the applicant, the appellant seeks clarification regarding the applicability of the said notification.

Decision of Advance Ruling Authority :

Decision :

Hearing was granted and in the Hearing, the applicant was given to know that the issue raised before the Advance Ruling Authority is not maintainable as it questioned the vires of the Notification amending the Rules and it was not within the scope of section 98 of the CGST Act or section 98 of the Karnataka Goods and Services Tax Act. The applicant was provided opportunity to provide sufficient support to whether the application is maintainable or not.

Since the jurisdictional refunding authority is an adjudicating authority and any decision by him is appealable under the Act before the concerned appellate authority and advance ruling authority is not the forum before such issue can be raised and in view of the above, the application is not maintainable on this account itself. Further, it is seen during the arguments, the vires of the rules are questioned and it is not within the scope of this authority for advance ruling.

Hence, The application is rejected for the reason it is not maintainable for the reasons cited in the order.