

GIB/KL/HAZRATH VALIYAPARAMBIL/23.03.2020/AAR-468

Advance Ruling Category : GST EXEMPTION

State : Kerala

Order No.: GIB/KL/HAZRATH VALIYAPARAMBIL/23.03.2020/AAR-468

Name of Entry :
HAZRATH VALIYAPARAMBIL AZEEZ

Date : 23-03-2020

Breif Issue :

FACTS OF THE CASE:

The Principal, Government Industrial Training Institute, Kalamassery awarded a contract to the applicant, Hazrath Valiyaparambil Azeez for the supply of Boiled milk without sugar, Banana fresh, Bread, Cooked egg with shell to the students as per the Government scheme.

Decision of Advance Ruling Authority :

ISSUE OF THE CASE AND DECISION:

Whether supply of following goods and services by way of catering to students of Govt. Industrial Training Institute, Kalamassery as per the Govt. Scheme for Rs. 12.40/- per student per day attract GST?

HELD:- The activity of the applicant of supply of the above items by way of catering to students of Industrial Training Institute under the scheme sponsored by the State Government is classifiable as a service falling under Service Classification Code – 9963 -996337 – Other contract food services and qualifies for exemption from GST under SI No. 66 of the Notification No.12/2017-Central Tax (Rate) dtd.28-06-2017 as the institution is providing service by way of education up to higher secondary school or equivalent.

Whether GST registration is required for supply of goods and services of above items?

HELD:- As per Section 22 of the CGST/SGST Act, 2017; every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees. Section 23 (1) of the CGST Act, 2017 stipulates that any person engaged exclusively in the

business of supplying goods or services or both that are not liable to tax or wholly exempt from tax shall not be liable to registration. In view of the provisions of Section 23 of the CGST Act, 2017, the applicant is not liable to registration if the applicant is exclusively engaged in the supply of goods / services as detailed in (i) above.

Whether TDS under Section 51 of the GST Act is applicable in the above supply of goods and services?

HELD:- As per Section 51 of the CGST/SGST Act, 2017 a department or establishment of the State Government shall be liable to deduct tax at the rate of two per cent from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. As the activity of the applicant is exempted from GST the provisions of TDS is not attracted.

Whether refund of GST is eligible in the case of TDS deducted and paid under Section 51 of the GST Act?

HELD:- The amount deducted as TDS will be credited to the Electronic Cash Ledger of the applicant on filing of TDS returns by the Deductor as the applicant is registered. Since the supply made by the applicant is exempted from GST, the applicant can claim refund of the excess balance in the Electronic Cash Ledger as per provisions of Section 54 of the CGST Act, 2017.