M/s Divisional Forest Officer, Logging Division, Chintur, East Godavari District (A.P) (GSTIN: 37AAAGD0764M1ZA)

Appellate Authority for Advance Ruling — Andhra Pradesh

Order /AAAR/AP/01(GST)/2019 in Application No. AAAR/04(GST)/2019, d… Dated **12.04.2019**

Q Questions Before the Authority

- Whether GST is applicable to the extraction or cutting of timber and bamboo in natural forest, carried out through registered contractors who engage tribal labourers, and if so at what rate and under which HSN code.
- Whether GST is applicable to the transportation of timber and bamboo from natural forest to Government depots, which is partly labour (loading and unloading) and partly road transport by lorry or truck, and if so at what rate and under which HSN code.
- Whether GST is applicable to the maintenance of Government depots, including classification and grading of timber and bamboo and wages to mastris for supervision, and if so at what rate and under which HSN code.

F Facts

The applicant, a Divisional Forest Officer, undertakes logging activities including extraction of timber and bamboo from natural forest, transport to Government depots, and grading and classification at depots. These works are awarded through open tender, nomination or piece-work contracts to the lowest registered contractor, who engages local tribal labourers, and bills are paid at Forest Schedule of Rates. The applicant states it had been collecting 18% GST (9% SGST and 9% CGST) on timber under HSN 4403 and 5% GST on bamboo under HSN 1401 from bidders. The earlier Authority for Advance Ruling (Ruling AAR No. 30/AP/GST/2018, dated 28.12.2018) held that the applicant was a recipient and not a supplier, and so was not eligible to seek a ruling under Sec. 98(2).

H Ruling

The Appellate Authority rejected the appeal on procedural grounds without examining the merits of the three questions. It found that the appeal was not filed in Form GST ARA-02 as required by Rule 106 and was not accompanied by the prescribed fee of Rs. 10,000. The DFO was informed on 05.03.2019 to comply, no response was received, and a personal hearing notice was issued, after which the appeal was rejected.

R Reasoning

The Appellate Authority relied on Rule 106, which requires an appeal against an advance ruling under Sec. 98(6) to be filed on the common portal in Form GST ARA-02 with a Rs. 10,000 fee deposited in the manner specified in Sec. 49. The applicant's appeal did not meet either requirement, and the applicant did not respond to the authority's communication of 05.03.2019. Because the appeal failed on these procedural lapses, the authority did not decide whether the applicant falls within the definition of advance ruling in Sec. 95(a) or the eligibility question under Sec. 98(2). The order therefore contains no finding on the merits of the rate or HSN questions.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

Rule 106 of the APGST Rules (Form and manner of appeal to the Appellate Authority for Advance Ruling; Form GST ARA-02…

Sec. 98(6) (appeal against advance ruling, as referred to in Rule 106)

Sec. 49 (manner of deposit of fee)

Sec. 95(a) (definition of advance ruling, as argued by the applicant)

Sec. 95(A) (as cited by the applicant)

Sec. 97(2) and Sec. 100(1) (as referred to in the definition of advance ruling)

Sec. 98(2) (eligibility to seek advance ruling, as applied by the earlier Authority for Advance Ruling)

! For the Practitioner

This order is useful mainly as a reminder that an advance ruling appeal must be filed in Form GST ARA-02 with the Rs. 10,000 fee, or it will be rejected without a merits decision. It does not decide whether a government department that engages contractors is a supplier or recipient under Sec. 98(2), nor the GST rate or HSN for forest extraction, transport or depot grading. Practitioners wanting those answers should read the earlier Authority for Advance Ruling order, which addressed eligibility, and any fresh application that complies with the procedural requirements.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> ap_aaar_01_2019_12.04.2019_dfo.pdf

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