M/s Haryana Power Generation Corporation Ltd., Village Assan, Assandh Road, Assan, Panipat, Haryana (GSTIN 06AABCH4536J1ZM)

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2019-20/20 (In Application No. 20/2019… Dated **28.02.2020**

Q Questions Before the Authority

- Whether coal rejects disposed of by way of sale at a very nominal price by the applicant's power plants attract levy of compensation cess at Rs. 400 per MT.
- Whether coal rejects supplied by the applicant's power plants are covered under HSN 2701 for levy of compensation cess at Rs. 400 per MT.
- Whether coal rejects disposed of by way of sale at a very nominal price by the applicant's power plants are covered for exemption from compensation cess under Sr. No. 41A of Notification No. 01/2017-Compensation Cess (Rate) dated 28.06.2017.
- Whether coal rejects disposed of by way of sale at a very nominal price by the applicant's power plants are covered under any other exemption notification from compensation cess.

F Facts

The applicant operates three coal-based thermal power plants in Haryana and buys coal from coal companies, paying GST and compensation cess of Rs. 400 per MT on it. In its coal mills, coal that is unfit for combustion or below the required carbon specification is segregated as coal rejects, which industries use as fuel. The applicant proposes to sell these coal rejects to such industries at a very nominal price.

H Ruling

Levy of compensation cess on sale of coal rejects at very nominal price	**Attracts compensation cess at Rs. 400 per MT**	Applies to disposal by way of sale at a very nominal price by the applicant's power plants
Coverage of coal rejects under HSN 2701 for compensation cess	**Covered under HSN 2701; cess at Rs. 400 per MT**	Based on HSN 2701 covering coal and similar solid fuels manufactured from coal
Exemption under Sr. No. 41A of Notification No. 01/2017-Compensation Cess (Rate) dated 28.06.2017	**Not covered for exemption from compensation cess**	Sr. No. 41A covers coal rejects from a coal washery only; the applicant has itself stated it is not a coal washery
Exemption under any other notification from compensation cess	**Not covered under any other exemption from compensation cess**	Based on the present provisions of CBIC as cited in the order

The authority held that coal rejects sold by the applicant's power plants at a very nominal price attract

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compensation cess at Rs. 400 per MT and fall under HSN 2701. **The applicant is not covered for the exemption under Sr. No. 41A of Notification No. 01/2017** , because that entry is limited to coal rejects from a coal washery and the applicant is not a coal washery. The applicant is also not covered under any other compensation cess exemption.

R Reasoning

Sr. No. 39 of Notification No. 01/2017-Compensation Cess (Rate) imposes Rs. 400 per tonne on heading 2701, and the authority held that coal rejects fall within that heading as solid fuels manufactured from coal. The Press Release of 18.01.2018 clarified that coal rejects fall under heading 2701, but the applicant pointed out that no notification gave it legal effect. Notification No. 02/2018-Compensation Cess (Rate) dated 26.07.2018 later inserted Sr. No. 41A, giving nil cess only for coal rejects supplied by a coal washery, out of coal on which cess was paid, where no input tax credit has been availed. The applicant accepted that it is not a coal washery, so the authority held that the nil-rate entry does not apply and no other exemption was found.

P Provisions Relied On

- Section 97(2)(b) of the CGST/HGST Act, 2017 (applicability of a notification)
- Notification No. 01/2017-Compensation Cess (Rate) dated 28.06.2017, Sr. No. 39 (heading 2701, Rs. 400 per tonne)
- Notification No. 01/2017-Compensation Cess (Rate) dated 28.06.2017, Sr. No. 41A (as referred to in the question)
- Notification No. 02/2018-Compensation Cess (Rate) dated 26.07.2018 (inserted Sr. No. 41A, nil rate for coal rejects from a co…
- Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, Schedule I (heading 2701)
- Press Release dated 18.01.2018 of the Press Information Bureau, Ministry of Finance (25th GST Council clarification on coal…
- 28th GST Council meeting dated 21.07.2018 (recommendation on coal rejects from washery)

! For the Practitioner

This ruling helps power plants and other non-washery producers who sell coal rejects, since it confirms that Rs. 400 per MT compensation cess applies on such sales. It also shows that the nil-cess entry for coal rejects is limited to coal washery output with no input tax credit availed. The order does not decide whether rejects from an establishment that truly qualifies as a coal washery attract the nil rate, and it does not address the Central GST or state GST rates on the sale.

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 -> har_aar_20_2019-20_28.02.2020_hpgcl.pdf

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