K Uttamlal Exports Pvt. Ltd.

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 57/2018-19/B- 130, Mumbai, dt. 23/10/2018 Dated **23.10.2018**

Q Questions Before the Authority

- Whether the goods exported out of India directly by the manufacturer, with the applicant named as Third Party Exporter for the purpose of the Foreign Trade Policy, will be considered as exports at the hands of the applicant under the GST laws?
- If the said transaction is held to be exports at the hands of the applicant under GST, whether it will qualify as zero rated supply?

F Facts

The applicant, a merchant exporter of chemicals with no manufacturing facility, received an export order from Ampak Company Inc., USA, for Linear Alkyl Benzene Sulphonic Acid 96%. It placed a back-to-back purchase order on Sai Fertilizers & Phosphates Pvt. Ltd., which manufactured and exported the goods directly from its premises, with the applicant named as Third Party Exporter in the shipping bill and bill of lading. The applicant raised the invoice on the foreign buyer, received foreign currency with a Bank Realisation Certificate in its own name, and claimed the supply as a zero-rated export under a Letter of Undertaking.

H Ruling

Whether goods exported directly by the manufacturer, with the applicant named as Third Party Exporter under FTP, are exports at the applicant's hands under GST	**Not answered**	Held not covered under Section 97 CGST Act, 2017, so the application was not maintainable.
Whether, if the transaction is exports at the applicant's hands, it qualifies as zero rated supply	**Not answered**	Not answered in view of the answer to Question 1.

The Authority held the application not maintainable because the question was not covered under the purview of Section 97 of the CGST Act, 2017. It therefore gave no opinion on whether the transaction is an export at the applicant's hands. Since the first question was not answered, the second, which depends on it, was also not answered.

R Reasoning

The Authority read sub-section (2) of Section 97 of the CGST Act, which lists the matters on which advance rulings may be sought, including classification, applicability of notifications, time and value of supply, input tax credit, and liability to pay tax. It concluded that the main question, whether the transaction is an export by the applicant or by the manufacturer Sai Fertilizers, did not fall within any of these categories. On that basis it

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

declined jurisdiction under Section 98 and gave no reasoning on the merits. The concerned officer's comments on the Third Party Exporter arrangement were recorded but were not adopted in the order.

P Provisions Relied On

Section 97 of the CGST Act, 2017 (sub-section 2, categories of advance ruling), applied under the Maharashtra GST Act, 2017

Section 98 of the CGST Act, 2017 and the Maharashtra GST Act, 2017 (procedure and order)

! For the Practitioner

This order is useful mainly as an example of the Authority declining to rule on a third party export question because it falls outside the Section 97 categories. A practitioner facing a similar question should not treat it as a ruling on whether third party exports are exports under GST or whether they are zero rated. The question remains open, and the concerned officer's contrary observations are not decided by this order.

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 -> ara_order_57_2018_maharashtra_k_uuepl.pdf

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