M/s. NRB HYDRAULICS PVT LTD

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-27/2019-20/B-120, Mumbai, dt. 03/12/2019 (printed as 'NO.… Dated **03.12.2019**

Q Questions Before the Authority

- GST to be paid by whom on scrap generated from labour job at our vendor's place?

F Facts

The applicant sub-contracts the manufacture of its products to vendors on labour jobs. The labour charges it pays take into account the scrap generated during manufacture, so part of the payment is made by cheque and part by barter, with the scrap given to the vendor as its own property. The applicant states that GST on such scrap is paid by the vendors and asks whether this procedure is as per law.

H Ruling

The authority rejected the application as non-maintainable. Because the applicant itself stated that the scrap is the property of the vendors, the supply of scrap would not be undertaken or proposed to be undertaken by the applicant. The question of taxability of that supply can therefore be raised only by the vendors, and it falls outside the scope of Section 95 of the CGST Act.

R Reasoning

The authority noted that under Section 95 an advance ruling may be given only on matters relating to the supply of goods or services undertaken or proposed to be undertaken by the applicant. The applicant's own submission was that the scrap belongs to the vendors, so the applicant is not the supplier of that scrap. The question of tax on the scrap sale therefore cannot be raised by the applicant, and the authority declined to answer it.

P Provisions Relied On

Section 95 of the CGST Act, 2017 (definition of advance ruling and scope of the authority)

Section 97 of the CGST Act and MGST Act, 2017 (filing of application; referred to in the proceedings)

Section 98 of the CGST Act and MGST Act, 2017 (procedure and order on advance ruling)

Chapter XVII of the CGST Act, 2017, with Sections 95 to 98, 102, 103, 104 and 105 referred to generally

Section 97(2) of the CGST Act (matters on which advance ruling may be sought; referred to)

! For the Practitioner

This order is useful mainly as a procedural precedent. It shows that the authority will decline a question on scrap taxability where the applicant itself says the scrap belongs to its vendor, since the applicant is then not the supplier. Practitioners in sub-contracting arrangements should note that the question must be framed around the applicant's own supply. The order does not decide who pays GST on scrap in a labour-job arrangement, nor whether barter of scrap against labour charges is a taxable supply.

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 -> mah_aar_27_2019-20_b-120_03.12.2019_nrbhpl.pdf

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