M/s Wave distilleries and Breweries Ltd., Ramghat Road, Ahmedpura, Aligarh, U.P. - 202125 (GSTN: 09AABCU0335J1ZE)

Authority for Advance Ruling — Uttar Pradesh

Order No. 34, dated 29.07.2019 (handwritten on the cover letter; the Proc… Dated **29.07.2019**

Q Questions Before the Authority

- Whether Notification No. 31/2017 dated 13th Oct. 2017 is applicable on the applicant?

F Facts

The applicant is a registered GST assessee engaged in bottling alcoholic beverages on behalf of M/s United Breweries Ltd. and M/s A.B. Sugars Ltd. It filed Form ARA-01 on 30.04.2019 (the order also refers to an application dated 01.05.2019) seeking a ruling on the applicability of Notification No. 31/2017. The jurisdictional GST officer submitted comments and a verification report, and the Joint Commissioner (Corporate Circle), Commercial Tax, Aligarh, informed the Authority that a case on the same issue was already pending against the applicant for calculation of tax, penalty and fine under section 74(5).

H Ruling

Whether Notification No. 31/2017 dated 13 Oct. 2017 is applicable on the applicant	**Application not admitted; no ruling on the merits**	Not admitted under section 98(2) because the same question is already pending with the State tax authorities, Aligarh, in proceedings under section 74(5)

The Authority did not admit the application. It held that the question raised is already pending before the State tax authorities at Aligarh, which bars admission under the proviso to section 98(2). The order gives no ruling on whether Notification No. 31/2017 applies to the applicant.

R Reasoning

The Authority examined the applicant's submissions and the jurisdictional officer's report. It relied on the Joint Commissioner's letter dated 22.07.2019, which confirmed a pending case on the same issue for tax, penalty, fine and other legal proceedings under section 74(5). Under section 98(2), the Authority may admit or reject an application after hearing both sides, but the proviso states that it shall not admit an application where the question is already pending or decided in any proceedings under the Act. Both members unanimously held the proviso applies, so the application was rejected at the threshold and the merits were not reached.

P Provisions Relied On

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

Section 98(2) of the CGST Act, 2017 (admission or rejection of advance ruling application; proviso on pending or decided que…

Section 74(5) of the CGST Act, 2017 (referred to as the basis of the pending State proceeding)

Notification No. 31/2017 dated 13 Oct. 2017 (named in the question; its content is not discussed in the order)

! For the Practitioner

This order is useful mainly for its procedural point: an advance ruling application will be rejected at admission if the same question is already pending before any tax authority under the Act, including a show-cause or demand proceeding under section 74. A practitioner advising a client with a parallel departmental case should expect rejection on this ground. The order does not decide whether Notification No. 31/2017 applies to bottling or contract-bottling arrangements, so it cannot be cited for that substantive point.

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 -> up_aar_34_29.07.2019_wdbl.pdf

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