Sterlite Technologies Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 41/2018-19/B- 112, Mumbai, dt. 12.09.2018 Dated **12.09.2018**

Q Questions Before the Authority

- 1.1. Whether the Applicant is required to separately discharge GST on the excess length of OF although the cost of such excess length is already included in the price charged to independent customers?
- 1.2. Whether the Applicant is required to separately discharge GST on the excess length of OF although the cost of such excess length is already included in the price charged to distinct persons in terms of Schedule I provisions?
- 1.3. If GST is not payable separately on the excess length, whether the Company is required to reverse proportionate credit to the extent of supply such excess length?

F Facts

The applicant manufactures optic fibre (OF) and optical fibre cable (OFC), and supplies OF to its own units at Rakholi and Dadra as well as to third-party customers. Because exact-length OF is difficult to produce, each spool is made with a marginal surplus of about 1-2 metres over the invoiced usable length, and the applicant says the price charged for the usable quantity already includes the cost of the excess length. The question is whether GST must be paid separately on that excess length, and whether input tax credit must be reversed proportionately if it does not.

H Ruling

The authority rejected the application as non-maintainable and did not answer the three questions on merits. It held that the bar in the proviso to **section 98(2)** applies because proceedings on the same issue were already pending before the department when the application was filed on 19.06.2018, following searches on 02.04.2018 and 03.04.2018 and follow-up action including recorded statements. The order is a rejection under sub-section 2 of section 98 of the CGST Act, 2017.

R Reasoning

The authority relied on the department's submissions that searches of the applicant's Waluj and Shendra units were conducted on 02.04.2018 and 03.04.2018, followed by statements of key persons recorded under section 70 of the CGST Act. It accepted that these were proceedings on the same question raised in the application. The applicant argued that no proceedings existed until a show cause notice was issued, but the authority held that a show cause notice is the culmination of an inquiry rather than its starting point. It therefore concluded that the proviso to section 98(2) prevented admission, and rejected the application as non-maintainable.

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

P Provisions Relied On

Section 97 of the CGST Act, 2017 and the corresponding Maharashtra GST Act provision (basis of the application)

Section 98(1) of the CGST Act, 2017 (forwarding of application to the concerned officer)

Section 98(2) of the CGST Act, 2017 and its proviso (bar on admitting an application where the question is already pending or…

Section 70 of the CGST Act, 2017 (recording of statements of key persons during the department's follow-up investigation)

! For the Practitioner

This order is useful for showing how the pending-proceedings bar in section 98(2) is applied at the admission stage: an investigation begun by searches and statement-recording counts, even if no show cause notice has been issued, and the authority will reject the application on that basis. It does not decide whether excess-length OF attracts separate GST, how the transaction value should treat that cost, or whether input tax credit must be reversed. A practitioner facing a similar question should check whether any departmental proceeding on the issue is pending before filing an advance ruling application.

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 -> maha-gst-ara-41-b-112 dt. 12.09.18 stl.pdf

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