

GST : Where applicant supplies seeds (exempted item) in packaged form using such packing materials (taxable item), to its own branches in other States, then no ITC could be claimed on packaging material used for said exempted supply of seeds, whereas, if applicant supplies only packing material to own branches in other States, then ITC involved in purchase of such packing material could be availed as per section 17(2) of Chhattisgarh Goods and Services Tax Act, 2017

- The applicant, VSPL with multiple registrations under GST in various States is involved in business of supplying seeds in packaged form using packaging materials for sowing purpose. The seeds are exempted from GST whereas packing materials and other consumables are taxable. It also used to transfer aforesaid taxable inputs like packaging materials and other consumables from one branch to another and from one processing unit to another. The applicant has filed the application under section 97 of Chhattisgarh Goods & Services Tax Act, 2017 (CGST Act) requesting advance ruling to keep Input Tax Credit (ITC) of the packaging material till they are into their stock and regarding ITC while transferring goods between their own branches.

- The applicant contended that it transfers aforesaid taxable inputs within its own branches situated in various States across India and are required to pay GST merely for these inter-branch transfers. It was thus their contention that they are liable for multiple tax which is against the core principles of GST.

- As per provisions of section 17(2) of CGGST Act, 2017 any registered recipient can claim ITC to extent of taxable stock or taxable outward supply shown in their returns. The registered recipient cannot claim ITC on amount of taxable supply component included in total amount of exempted supply. The amount of unclaimed ITC shall also be reversed in electronic ledger of same month. Thus, it is clear from the provisions of section 17(2) of CGGST Act, 2017 that if applicant supplies seeds (exempted item) in packaged form using such packing materials (taxable item), to its own branches in other States, then no ITC could be claimed on packaging material used for said exempted supply of seeds, whereas, if applicant supplies only packing material to own branches in other States, then ITC involved in purchase of such packing material could be availed as per section 17(2) of CGGST Act, 2017.

- Thus, the applicant is not entitled to ITC on packaging material used for packaging seeds, while making such exempted supply of seeds to their own branches and to other purchasers. They are however, entitled for ITC (of tax involved in purchase of such packing material) on exclusive taxable supply of such packing material made to their own branches in other States, in terms of section 17(2) of Chhattisgarh Goods and Services Tax Act, 2017.

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**[2018] 95 taxmann.com 89 (AAR-CHHATTISGARH)
AUTHORITY FOR ADVANCE RULINGS, CHHATTISGARH**

VNR Seeds (P.) Ltd., *In re*

S.K. BUXY AND RAJESH KUMAR SINGH, MEMBER

NO. STC/AAR/01/2018

JUNE 6, 2018

RULING

1. The Applicant M/s VNR Seeds Pvt. Ltd. Raipur, GSTIN 22AACCV0174D1ZW has filed the application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 requesting advance ruling to keep Input Tax Credit (ITC) of the packaging material till they are into their stock and regarding ITC while transferring goods between their 'own branches. This ruling has been sought by the applicant in the light of section 17 of CGGST Act, 2017 stipulating therein non accumulation of ITC in case of units dealing in non-tax/exempted goods. The aforesaid Advance ruling has also been requested by the applicant as for each such transfer they have to pay GST merely for internal transfer of goods from one branch to another branch for one goods and the same goods in same hands would be liable for multiple tax which will be against the core principles of GST.

2. Facts of the case:-

- I. The applicant M/s VNR Seeds Pvt. Ltd. Raipur with multiple registrations under GST in various States is involved in the business of supplying seeds (in packaged form using packing materials), for sowing purpose, which is exempted item.
- II. They procure taxable packaging materials/commodities etc. which are required for processing and packing of seeds.
- III. They also use to transfer aforesaid taxable inputs like packaging materials and other consumables from one branch to another and from one processing unit to another.

3. Contention of the applicant:-

- I. The applicant wants to use Input Tax Credit (ITC) on the aforesaid purchased packaging materials and keep credit till they are in their stock.
- II. The applicant transfers aforesaid taxable inputs within its own branches situated in various States across India and are required to pay GST merely for these inter-branch transfers. It was thus their contention that they are liable for multiple tax which is against the core principles of GST.

4. Personal Hearing: -In keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant. Shri Manish Karkun, Assistant General Manager (Accounts) of the applicant, M/s VNR Seeds Pvt. Ltd., Raipur, appeared before us for hearing on 24.5.2018 and reiterated their contention. He also furnished a written submission dated 24/5/2018, which has been taken on record.

5. The legal position, Analysis and Discussion:-

The provisions for implementing the CGST Act and CGGST Act, 2017 are similar.

Now we sequentially discuss the provisions that are applicable in the present case -The Applicant is involved in -

- a. The supply of seeds (exempted item) in packaged form using packaging material (taxable under GST) and also in
- b. Supply of such packaging materials and other consumables to their own branches situated in other States across India.

5.1 The Applicant has submitted that they are involved in the business of supplying seeds in packaged form using such packaging materials. Seeds are exempted from GST whereas packing materials and

other consumables are taxable. Thus, this supply of the applicant falls under the category of composite supply, as stipulated under the provisions mentioned hereunder:-

- i U/s. (2)30 of CGGST Act, 2017:- "Composite Supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;
Illustration.- Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;
- ii U/s. 8 of CGGST Act, 2017:- Tax liability on composite and mixed supplies. The Tax Liability on a composite or a mixed supply shall be determined in the following manner, namely:-
 - (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.
 - (b) a mixed supply.....
- iii U/s. 16(1) of CGGST Act, 2017:- Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in Section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.
- iv U/s. 49(1) of CGGST Act, 2017:- Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, maintained in such manner as may be prescribed.
- v. U/s. 41 of CGGST Act, 2017;- Claim of input tax credit and provisional acceptance thereof :-
 - (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.
 - (2) The credit referred to in sub-section (1) shall be utilized only for payment of self-assessed output tax as per the return referred to in the said sub-section.
- vi. U/s. 17(2) of CGGST Act, 2017:- Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

5.2 As per the above stipulated provisions of section 17(2) of CGGST Act, 2017 any registered recipient can claim ITC to the extent of taxable stock or taxable outward supply shown in their returns. The registered recipient cannot claim ITC on the amount of taxable supply component included in the total amount of exempted supply. The amount of unclaimed ITC shall also be reversed in the electronic

ledger of the same month.

Thus it is clear from the above legal provisions that if the applicant supplies seeds (exempted item) in packaged form using such packing materials (taxable item), to its own branches in other States, then no ITC could be claimed on the packaging material used for the said exempted supply of seeds. Whereas, if the applicant supplies only packing material to own branches in other States, then the ITC involved in purchase of such packing material could be availed as per section 17(2) of *CGGST Act, 2017*.

In view of the deliberations and discussions as above, we pass the following order:

Order

(Under section 98 of the Chhattisgarh Goods and Services Tax

Act, 2017)

No.STC/AAR/01/2018

Raipur, Dated 06.06.2018

In view of the discussions held above, the ruling sought by the applicant is answered as under:-

The applicant is not entitled to ITC on the packing material used for packaging seeds, while making such exempted supply of seeds to their own branches and to other purchasers. They are however, entitled for ITC (of the tax involved in the purchase of such packing material) on the exclusive taxable supply of such packing material made to their own branches in other States, in terms of section 17(2) of Chhattisgarh Goods and Service Tax, Act 2017.

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