



BEFORE THE AUTHORITY FOR ADVANCE RULINGS
for the State of Andhra Pradesh (Goods and Service Tax)
(5th Floor, O/o Chief Commissioner of Commercial Taxes, D.No:5-56, Block-B, R.K
Spring Valley Apartments, Edupugallu, Vijayawada-521151.)

Present:

Sri. J.V.M Sarma (Member)

Sri.Amaresh Kumar (Member)

The 20th day of August 2018

Ruling No. AAR/AP/ 08(GST)/2018

In

Application No.AAR/13(GST)/2018

1	Applicant	M/s SYNTHITE INDUSTRIES (GSTIN: 37AADCS5616E1ZG) Survey No. 542/4B, 542/1, Tammavam, Bodduvanipalem Mandal, Prakasam District, Andhra Pradesh – 523212.
2	Jurisdictional Officer	Assistant Commissioner of Central Tax, Ongole Range
3	Present for the Applicant	Sri. P. Chaitanya (Authorized Representative)
4	Present for the Jurisdictional Officer	Received Remarks
5	Date of Personal hearing	25 th June 2018

Note: Under Section 100 of the APGST Act'2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section 99 of APGST Act'2017, within a period of 30 days from the date of service of this order.

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M/s SYNTHITE INDUSTRIES LIMITED, GST: 37AADCS5616E1ZG, Survey No. 12/4B, 542/1, Tammavam, Medarametla, Bodduvanipalem Mandal Prakasam District, Andhra Pradesh – 523212, Andhra Pradesh, India(hereinafter also referred as applicant-job worker), having GSTIN: 37AADCS5616E1ZG, are engaged in Job work of removing "Caffeine" from Tea powder imported from foreign Company viz., HTH Hamburger Teehandel GmbH Im. & Export, Hamburg, Germany, (herein after called Principal) and exporting the de-caffeinated tea to his Principal. Apart, the applicant-job worker is also engaged in the manufacture, export of Spice Oils and Oleoresins from India. Their annual turnover is reported as more than Rupees 1500 Crores.

2. The applicant has filed an application in Form ARA-01, dated 29.05.2018, and paid the requisite fee of Rs.10,000 (Ten thousand) Rs.5000 towards SGST, and Rs.5000 towards CGST vide CPIN No.18053700006069, dated 03.05.2018, and its acknowledgement registration number is JRX346255.

3. The applicant has filed an application for seeking advance ruling on the process of job work i.e., importing the goods i.e., Green Tea/ black tea powders from his Principal from Germany and under taking process of "super critical fluid extraction." The material is being supplied by his Principal- foreign customer at free of cost and the processed output will be exported to them. The goods contains caffeine which is being removed by the applicant-job worker through extraction process. The de-caffeinated goods will be exported to the Principal as per their requirement and instructions.

4. **The applicant sought for clarification on the following issues :-**

- ❖ *Whether the process of providing job work service to foreign customer as explained above is taxable under GST. Is such transaction attracts GST?*
- ❖ *If applicable to GST, whether they have to pay IGST or SGST+CGST?*
- ❖ *Is the job work service provided by them is exempted from service tax under Mega exemption list as per Notification No. 25/2012 dated 20.06.2012 and not chargeable to GST?*

5. This application is forwarded to the jurisdictional officer i.e Superintendent, Central Board of Excise & Customs, Ongole Range, apart from marking a copy to the Assistant Commissioner (ST), Ongole, to offer their remarks, whether any proceedings are pending or passed by any authority. The Assistant Commissioner

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(ST), Ongole, in his remarks not clearly mentioned in remarks whether there are any pending or passed proceedings before any authority. Similarly, no remarks have been offered by Superintendent, Central Board of Excise & Customs, Ongole Range, Ongole, so far.

6. However, in response to a hearing notice issued to the applicant-job worker, Sri P. Chaitanya an authorized representative on behalf of applicant-job worker, has appeared on 25.06.2018 and submitted her arguments.

Legal provisions:

The definition of 'Job work" is as under:

"What is Job work? Section 2(68) of the CGST Act, 2017 defines job work as 'any treatment or process undertaken by a person on goods belonging to another registered person'. The one who does the said job would be termed as 'job worker'. The ownership of the goods does not transfer to the job worker but it rests with the principal. The job worker is required to carry out the process specified by the principal, on the goods."

With regard to IGST liability, Sec.13 of IGST Act, 2017 reads as under:-

13. (1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(2) The place of supply of services except the services specified in sub-sections (3) to

(13) shall be the location of the recipient of services: Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

(3) The place of supply of the following services shall be the location where the services are actually performed, namely:—

(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for

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repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs;

(b) services supplied to an individual"

Facts of the case:

7. A foreign Company viz., HTH Hamburger Teehandel GmbH Im. & Export, Hamburg, Germany (herein after called the Principal) had entered into an agreement with the applicant-job worker on 20.07.2017 for undertaking the work of processing Tea i.e., super critical fluid extraction, the other way round called removing Caffeine from Tea, the raw material/packing material is supplied by the foreign Principal to the factory premises of the applicant-job worker, and after the process, the de-caffeinated tea will be exported to the Principal (i.e., to Germany) as per the instructions entered at the time of agreement.

Question No.1 for clarification:

- ❖ *Whether the process of providing job work service to foreign customer as explained above is taxable under GST. Is such transaction attracts GST?*

With regard to the process of providing job work service by the applicant to the foreign principal, shall be classified under the HSN Code services Heading 9988, which reads as under:

"9988 - Manufacturing services on physical inputs owned by others The services included under Heading 9988 are performed on physical inputs owned by units other than the units providing the service. As such, they are characterized as outsourced portions of a manufacturing process or a complete outsourced manufacturing process. Since this Heading covers manufacturing services, the output is not owned by the unit providing this service. Therefore, the value of the services in this Heading is based on the service fee paid, not the value of the goods manufactured."

Further, the process of providing job work service to the foreign customer, in the premises of the applicant as per the specifications of the recipient of services is taxable under APGST Act 2017, as per Entry No.26 (HSN Code 9988) Proviso (iv), and liable to tax @ 18%.

Question No.2 for clarification:

- ❖ *If applicable to GST, whether they have to pay IGST or SGST+CGST?*

As per the facts furnished by the applicants, the raw material and work material for the said job work are supplied by the foreign principal, and the applicant is undergoing processing of the product as per the specifications of the principal, and the final product is being exported as per the terms and conditions to the principal. This transaction is squarely falling under first limb of clause (a) of Sub-sec.3 to Sec.13 of IGST Act 2017 which reads as under:-

13. (1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(3) The place of supply of the following services shall be the location where the services are actually performed, namely:—

(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or"

Hence, the place of supply for this transaction is location of the service where actually performed i.e., business premises of the applicant which is located in the State of Andhra Pradesh. Hence the tax liability under SGST Act/CGST Act 2017 only applies.

Question No.3 for clarification:

- ❖ *Is the job work service provided by them is exempted from service tax under Mega exemption list as per Notification No. 25/2012 dated 20.06.2012 and not chargeable to GST?*

As the Service Tax Act itself subsumed under Goods & Services Tax Act 2017, the Notification referred to, is no more applicable.

In the light of the above facts and legal provisions, the ruling is given as under:-



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1.The process providing job work service to the foreign principal, in the premises of the applicant as per the specifications of the recipient of services, is taxable under APGST Act 2017/CGST Act 2017, as per Entry No.26 (HSN Code 9988) Proviso (iv), and liable to tax @ 18%.

2. The place of supply for this transaction, is location of the service where actually performed i.e., business premises of the applicant, which is located in the State of Andhra Pradesh. Hence the tax liability under SGST Act/CGST Act 2017 only applies.

3. Regarding applicability of Notification No.25/2012, dated 20.06.2012, as the Service Tax Act itself subsumed under Goods & Services Tax Act 2017, the Notification referred to, is no more applicable.



Sd/- (J.V.M SARMA)
Joint Commissioner (State Tax),
Authority for Advance Ruling,
Andhra Pradesh.



Sd/-(AMARESH KUMAR)
Joint Commissioner (Central Tax),
Authority for Advance Ruling,
Andhra Pradesh.