

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Dr Tanisha Dutta, Joint Commissioner, CGST & CX

Joyjit Banik, Additional Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	AKS EXPO CHEM PVT LTD
Address	1557, khatihan, 313, Dejuri, Tehsil-barjora, Bankura-722202
GSTIN	19AAGCA3594E1ZK
Case Number	WBAAR 11 of 2024
ARN	AD1905240154660
Date of application	June 05, 2024
Jurisdictional authority (State)	Bankura Charge
Jurisdictional authority (Centre)	Bankura Division Commissionerate
Order number and date	12/WBAAR/2024-25 dated 10.09.2024
Applicant's representative heard	Mr. Varun Sahay, Director Mr. Shri Krishna Narayan Shukla, Senior Manager

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax

Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression “GST Act” would mean the CGST Act and the WBGST Act both.

1.2 The applicant states that it produces bulk explosives under the brand name BENGEL PLUS and operates manufacturing unit located at Village-Dejuri, Tehsil – Barjora, District- Bankura, West Bengal-722202 (“Manufacturing Unit”) and SILO unit located at Village Bharajuri, Police Station-Chandankyari, District- Bokaro, Jharkhand-828134 (“Silo”). The applicant assures that for the purpose of producing explosives at the Manufacturing Plant, the Applicant holds all the requisite explosive licenses as required under the prevailing Laws.

1.3 The applicant submits that manufactured goods are in a slurry/emulsion form and are used for heavy blasting in opencast mining. As goods are nearly in a thick liquid state, it cannot be packed but are transported to the mines in its current form using a special vehicle.

1.4 The applicant states that he supplies its product to Government Public Undertakings and/or their subsidiaries. For sale of the product to a particular mine, the applicant participates in the tenders floated by the PSU’s. Upon successful bidding, the PSUs and the applicant enter into a running contract. This agreement outlines the provision of materials over a defined timeframe.

1.5 The applicant has been awarded with a running contract to supply bulk explosives to Coal India Limited and its subsidiaries. The quantity specified in the day-wise requisition is mostly approximate, as the exact consumption requirement cannot be determined at the time of its removal from the Manufacturing Plant. The Running Contract outlines comprehensive guidelines, terms, and conditions governing the supplies, including quantities, quality, billing, and payments.

1.6 The applicant outlines the complete process according to the Delivery Schedule in the running contract, where the applicant is obligated to supply the required quantity as per the day-wise requisitions raised by the subsidiary companies. These requisitions are typically submitted on the evening of the preceding day of the blasting. However, the requisitioned quantities are mostly approximate since the blast holes are predominantly drilled during the night shift, i.e. after the requisitions have already been placed with the applicant company. Subsequently, on the following morning, the applicant dispatches the explosives to the mines in accordance with the requisitions. This transportation is facilitated by using a Special Vehicle, accompanied by an outward e-way bill and a delivery challan containing all the necessary information.

1.7 The applicant is of the view that the activities being carried out by him qualifies to be “continuous supply of goods” in terms of clause (32) of Section 2 of the GST Act. Therefore, the goods can be transported with e-way bill and delivery challan containing all the requisite information as prescribed in rule 55 of the CGST Rules, 2017 & the WBGST Rules, 2017. The left-over goods, if any, are returned to the factory of the applicant. The difference between the two is the actual quantity supplied to the mines and the applicant generates the tax invoice accordingly in terms of sub-section (4) of section 31 of the GST Act.

1.8 The applicant draws attention to clause (a) of sub-rule (1) of rule 55 of the GST Rules wherein it has been prescribed that the consignor may issue a delivery challan in case of *supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known*. The applicant submits that the same principle may be followed in his case and the invoices shall be issued after actual consumption of goods as per section 31(4) of the GST Act.

1.9 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking an advance ruling in respect of following questions:

(i) *Whether tax invoices are to be generated after day-wise final consumption of the goods at the mining site, as the supply of goods is in the nature of ‘Continuous Supply of Goods’ as per Section 2(32) of the CGST Act, 2017 & WBGST Act 2017. The issuance of Tax Invoice for the same shall be governed u/s 31(4) of the CGST Act, 2017 & WBGST Act 2017.*

(ii) *If the answer to the question in point (a) above is ‘yes,’ permission is requested in accordance with Rule 55(4) “Transportation of goods without issue of invoice” of the CGST Rules, 2017 & the WBGST Rules, 2017 ,where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of the removal of goods from the factory site for the purpose of supply, the supplier shall issue a tax invoice after delivery/consumption of goods at the mines site and the vehicles containing the bulk explosives (trade name- Bengel Plus) carrying a delivery challan along with an e-way bill as per Rule 55(4) of the CGST Rules, 2017 & the WBGST Rules, 2017, containing all requisite information, will be deemed to have valid documents for transportation.*

1.10 In terms of clause (a) of section 95 of the GST Act, an advance ruling means a decision provided by this authority or the appellate authority on matters or any questions specified in sub section (2) of section 97 or sub section (1) of section 100 of the GST Act in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

1.11 Further, an applicant desirous to obtain an advance ruling is required to adhere sub section (2) of section 97 of the GST Act where question/(s) can be sought in respect of the following:

- (a) Classification of any goods or services or both;
- (b) applicability of a notification issues under the provisions of this act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

1.12 In the instant case, questions raised by the applicant vide application made in FORM GST ARA-01 are found not to be covered under any of the clauses of sub-section (2) of section 97 of the GST Act.

1.13 The aforesaid observation was brought to the notice of the authorized representatives of the applicant in course of personal hearing. The applicant has selected clause (b) of sub section (2) of section 97 of the GST Act in serial no 13 of the application. However, in course of hearing, the authorized representatives of the applicant have failed to refer any such notification in respect of which the option was selected.

1.14 We are therefore of the view that the applicant has not raised any questions which are found to be covered under any of the clauses of sub-section (2) of section 97 of the GST Act. We are satisfied that the applicant has been provided reasonable opportunity to counter the aforesaid observations. Therefore, we do not find any reason to accept the instant application made by the applicant for pronouncement of ruling. The application is, therefore, rejected.

(Dr.TANISHA DUTTA)

Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 10th September, 2024

To,
AKS EXPO CHEM PVT LTD
1557, khatihan, 313, Dejuri, Tehsil-barjora, Bankura-722202

Copy to,

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Commissioner, Bolpur Commissionerate, Nanoor Chandidas Road, Sian, Bolpur, Dist: Bhirbhum, Pincode-731204
- (4) The Charge Officer, Bankura Charge, Ailakandi, P.O. Kenduadihi, Bankura-722 102
- (5) Office Copy