

TAMILNADU STATE APPELLATE AUTHORITY FOR ADVANCE RULING
(Constituted under Section 99 of Tamil Nadu Goods and Services Tax Act 2017)

A.R.Appeal No.05/2023 AAAR

Dated :22-01-2024

BEFORE THE BENCH OF

Sh. Ashish Varma, I.R.S., Principal Chief Commissioner of GST & Central Excise, Tamilnadu & Pondicherry Zone, Member (CGST), Appellate Authority for Advance Ruling, Tamil Nadu	Dr. D.Jagannathan, I.A.S., Commissioner of Commercial Taxes, Member (SGST), Appellate Authority for Advance Ruling, Tamil Nadu
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Order-in-Appeal No. AAAR/01/2024 (AR)

(Passed by Tamil Nadu State Appellate Authority for Advance Ruling under Section
101(1) of the Tamil Nadu Goods and Services Tax Act, 2017)

Preamble

1. In terms of Section 102 of the Central Goods & Services Tax Act 2017/Tamil Nadu Goods & Services Tax Act 2017("the Act", in Short), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the applicant within a period of six months from the date of the Order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the appellant has been given an opportunity of being heard.
2. Under Section 103(1) of the Act, this Advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act shall be binding only
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling;
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
3. Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the said advance ruling have changed.
4. Under Section 104(1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.

Name and address of the Appellant	M/s. Lions Seat Cushions Private Limited, No. 130/1, Murugappa Chambers, Saradha College Road, Salem – 636 016.
GSTIN or User ID	33AACCL1446J1ZP
Advance Ruling Order against which appeal is filed	105/AAR/2023 dated 05.09.2023
Date of filing appeal	06.11.2023
Represented by	Shri M. Arumugam, Managing Director & Shri K. Srirangaprasad, Chartered Accountant
Jurisdictional Authority - State	Alagapuram Assessment circle, Salem
Jurisdictional Authority - Center	Salem Commissionerate.
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs. 20000/- made under Form DRC-03, with debit entry No. DC3311230012254 dated 03.11.2023

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are in *pari materia* and have the same provisions in like matter and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act, 2017.

2. The subject appeal was filed under Section 100(1) of the Tamil Nadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017 (hereinafter referred to 'the Act') by M/s Lions Seat Cushions Private Limited, (hereinafter referred to as 'Appellant'). The Appellant was registered under the GST Act vide GSTIN 33AACCL1446J1ZP. The appeal was filed against the Order No.105/AAR/2023 dated 05.09.2023 passed by the Tamil Nadu State Authority for Advance Ruling (hereinafter referred to AAR) on the Application for Advance Ruling filed by the Appellant.

3.1. The Appellant has stated that they are manufacturers of 'seat covers' for two wheelers, bikes and scooters and they had applied for Advance Ruling vide application ARA-01 No.35/2022 dated 17.06.2022, with regard to classification and applicable rate of tax on the seat covers with the Authority for Advance Ruling vide their application dated 14.06.2022. The question raised in the application is as under:

"Whether the GST rate of 28% collected and paid for Bike and Scooter seat cover placing them under CTH 87089900, is correct."

The Authority for Advance Ruling (AAR) vide Ruling No.105/AAR/2023 dated 05.09.2023 ruled that Two wheeler seat covers are classifiable under CTH 87149990 and it will attract GST @ 28% vide entry No.174 of Schedule IV of Notification No.01/2017-CT(Rate) dated 28.06.2017.

3.2. Aggrieved, the Appellant had filed the present appeal. Under the grounds of appeal as submitted by the Appellant, they have argued that the seat cover is not an accessory to Two wheelers under HSN 87149990, and that the seat cover is a part of the seat that merits classification under a specific entry 94019900, which attracts rate of tax at 18% only as per entry no.435A of Schedule III of Notification No.01/2017-CT(Rate) dated 28.06.2017, as amended.

3.3 We observe that in this case, apart from the merits of the case, the appellant had also filed a petition for condonation of delay. Since the filing of appeal by the appellant in the instant case was beyond the prescribed time limit of 30 days from the passing of Order No. 105/AAR/2023 dated 05.09.2023, we are of the opinion that this aspect as to whether the delay in filing the appeal could be condoned or not, needs to be ascertained, before proceeding to discuss the merits of the case. Accordingly, an opportunity of personal hearing was accorded to the appellant for the limited purpose of condonation of delay.

PERSONAL HEARING:

5.1 Shri M. Arumugam, the Managing Director (MD) of M/s. Lions Seat Cushions Private Limited and Shri K. Srirangaprasad, Chartered Accountant, who is the authorized representative (AR) of the company, appeared for the virtual Hearing on 12.01.2024. The AR reiterated the submissions made by them in the petition for condonation of delay filed with the application.

5.2 The Members enquired as to whether they have produced any documentary evidences relating to the medical condition of the MD, at the relevant point of time. The AR replied that after filing the appeal, they have sent the relevant medical certificates through mail. The Members conveyed that they would look into the matter and consider the instant case for condonation of delay, accordingly.

DISCUSSION AND FINDINGS:

6.1 We have carefully considered all the material on record, the various submissions made by the Appellant and the applicable statutory provisions. The Appellant is before us, seeking primarily to condone the delay in filing the appeal against the Order No. 105/AAR/2023 dated 05.09.2023 passed by AAR.

6.2 The Appellant has stated that they have received the Advance Ruling No.105/ARA/2023 dated 05.09.2023 passed by the AAR on 18.09.2023, and to this effect, they have enclosed a copy of the postal cover. They have further stated that the appeal could not be filed in time and that the same was filed on 03.11.2023, after a delay of 21 days. As per Section 100(2) of the CGST Act, 2017, 30 days is the time

limit for filing the appeal from the date of receipt of the order. Hence, in the present case, the appeal should have been filed on or before 17.10.2023 as the order was reportedly received by the Appellant on 18.09.2023. They have stated that the reason for delay is due to the fact that Sh.M.Arumugam, Managing Director of the company, who is a heart patient, was advised to be in rest for 3 weeks, and therefore, the relevant documents could not be handed over to the consultant on time. As a result, the Appellant could not file the appeal within the time limit prescribed. Accordingly, the Appellant has prayed that a liberal approach may kindly be taken in view of the facts and circumstances and consider the case for condonation of delay.

6.3 We observe that in the instant case, having received the advance ruling on 18.09.2023, the appellant ought to have filed the appeal before the Appellate Authority for Advance Ruling by 17.10.2023 under normal circumstances, as laid down under Section 100(2) of the CGST Act, 2017. However, the proviso to Section 100(2) of CGST Act, 2017, states as follows :-

“Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.”

6.4 The appellant claims that they have filed the appeal on 03.11.2023, whereas from the documents available on file, we notice that the appeal was actually received by this office on 06.11.2023. Thereby, we observe that the appeal has been filed by the appellant after a delay of 21 days, but in any case, we find that the appeal has been filed within the condonable time limit of 30 days, as specified in the proviso referred above.

6.5 The appellant claims that Sh. M.Arumugam, Managing Director of the company, who is a heart patient, was advised to be in rest for 3 weeks, and therefore, the relevant documents could not be handed over to the consultant on time. Now the aspect as to whether the appellant was prevented by a sufficient cause from presenting the appeal, is required to be determined. From the documents furnished by the appellant relating to the medical condition of Sh. M.Arumugam, MD, it is seen that he was admitted to Apollo Hospitals, Chennai, underwent a CABG surgery on 09.02.2023, and was under medication thereafter. Meanwhile, under a medical certificate dated 11.10.2023 issued by Dr. S.Palanivel Rajan, Salem, it is seen that Sh. M.Arumugam has been advised to take rest for three weeks, as he had chest pain.

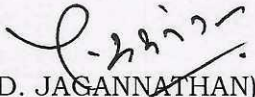
6.6 Going by the documents available on record, we are convinced that Sh. M.Arumugam, MD, had a condition that required medical care. Specifically, we observe that during the period around 17.10.2023, which was the last date under normal circumstances for filing the appeal, he had experienced chest pain which necessitated complete rest for three weeks from 11.10.2023 onwards. This being the case, we feel that the appellant has presented sufficient cause that prevented them

from filing the appeal within the normal period. Therefore, we are of the considered opinion that the delay of 21 days beyond the normal time limit in filing the appeal is condonable as provided under the proviso to Section 100(2) of CGST Act, 2017. We further find that this authority is empowered vide Section 101(1) of the CGST/TNGST Acts, 2017 to pass such orders as deemed fit.

7. Accordingly, we pass the following order:

ORDER

The delay of 21 days in filing the appeal by the appellant beyond the normal time limit of 30 days is condoned in terms of proviso to Section 100(2) of CGST Act, 2017, and the appeal will be taken up for consideration on merits.


(D. JAGANNATHAN)
Commissioner of Commercial Taxes
Tamil Nadu/Member AAAR


(ASHISH VARMA)
Pr. Chief Commissioner of GST
& Central Excise, Tamilnadu &
Pondicherry Zone/Member AAAR

To

M/s LIONS SEAT CUSHIONS PRIVATE LMTIED
No.130/1, Saradha College Road, Salem,
Tamil Nadu 636016

//BY RPAD//



Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & Central Excise,
Salem Commissionerate.
4. The Assistant Commissioner (ST),
Alagapuram Assessment circle, Salem Division
5. Master File/ Spare-2