

T, NO-39/2019-20

**THE AUTHORITY ON ADVANCE RULINGS IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 12/ 2020

Dated : 18-03-2020

Present:

1. Dr. Ravi Prasad M.P.

Additional Commissioner of Commercial Taxes ...Member (State Tax)

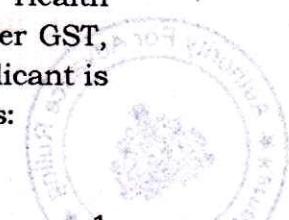
2. Sri. Mashhood ur Rehman Farooqui

Joint Commissioner of Central Tax, ...Member (Central Tax)

1.	Name and address of the applicant	M/s Water Health India Private Limited Plot No 1926, C Block, Sahakar Nagar, Bangaluru Rural, Karnataka - 560092
2.	GSTIN or User ID	29AACW5652P1ZL
3.	Date of filing of Form GST ARA-01	29.08.2019
4.	Represented by	Sri Abhinav Srivastav, Advocate and ADR
5.	Jurisdictional Authority – Centre	RANGE-DND7
6.	Jurisdictional Authority – State	LGSTO-150, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs 5,000-00 under SGST Act vide CIN No. ICICI9082900067251 dated:08.08.2019

ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s Water Health India Private Limited, Plot No 1926, C Block, Sahakar Nagar, Bangaluru Rural, Karnataka - 560092 filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read to Rule 104 of CGST Rules 2017 and Section 97 of the KGST Act, read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 discharged the fee of Rs.5,000/- each under the CGST Act and the KGST Act.
2. M/s Water Health India Private Limited (hereinafter referred to as "applicant"), is a Private Limited Company incorporated in the year 2006 vide CIN U41000TG2005PTC072437 and applicant is subsidiary of Water Health International, United States of America. The Applicant is registered under GST, Act 2017 in the State of Karnataka vide GSTIN 29AACW5652P1ZL. Applicant is engaged in the business of supplying purified water in the following types:



a) in unsealed form by filling customer empty cans (i.e., supply of purified water in a can which is being brought by the customer)

b) in 20 litre unsealed cans; and

c) Through piped network to establishments.

3. The applicant has entered into an agreement (MOU) with local panchayats/ municipalities by signing memorandum of understanding for the supply of purified water to the general public. The relevant terms and conditions of the said agreement are listed below:

- To supply purified water to urban under-served people across various metro cities by installing community water treatment plant at economical price.
- CWS shall be designed to treat 21,000/44,000/65,000 litres of water per day using filtration process for removal of physical, chemical impurities and microbial contamination.
- The applicant undertakes the water treatment process through CWS is as under:
 - Raw water from source (well/pond/bore well/others) is collected into the raw water tank and is then pumped to CWS for removal of suspended solids, organic matter, chlorine, obnoxious taste and smell; and
 - The purified water is further sent to Reverse Osmosis membranes to remove total dissolved solids, bacteria and pathogens and then the same is sent to purified water storage tank;
- Purified water shall meet the drinking water standards of IS 10500 as well as WHO guidelines;
- The applicant is maintaining the TDS level of purified water at 109 mg/l which is in between the desired TDS level as per IS 10500:2012 i.e., 100-500 mg/l;

4. The applicant supplied this purified water to the public at the rate of Rs. 8/- for 20 litres water cans or such amount as is reasonable. Further agreement also enables the applicant to recover capital and operational expenses in case such amount collected falls short to recover its capital and operational expenditure. This may be subjected to revision with prior approval of concerned person with whom the applicant has an agreement.

5. In this background, the applicant had sought Advance Ruling on

- Whether supply of purified water to public in empty unsealed cans is exempt under GST law.



6. THE APPLICANT'S INTERPRETATION OF LAW

6.1 The applicant submits that the Entry No.99 of the Notification No. 2/2017 - Central Tax (Rate) dated 28th June, 2017 (hereinafter referred to as 'Notification') exempts the supply of water and applicant reproduced the relevant extract of the notification as under:

"Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] is exempt from GST".

6.2 Further, the applicant submits that a bare reading of the aforesaid entry of the notification reveals that all types of water is exempt under GST other than those sold in sealed containers. That means every type of water sold in unsealed containers are exempt under GST and this is evident from the usage of the term 'and' in the entry of the notification. The applicant submitted that the term 'sold in sealed container' runs along with the remaining terms of the notification. Further, the term 'and' prior to the term 'water' should be read in a manner that is conjunctive and in such a way that the phrase 'in a sealed container' is applicable for all the types of water enumerated in the entry. In this regard, the applicant relied on the following:

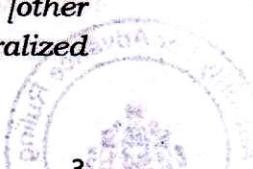
- As per the law lexicon dictionary, the word "and" expresses the "**relation of connection or addition**"
- In the case of *Sukhnandan V. Suraj Bali*, it was held that the word "and" should be understood in its natural grammatical sense to indicate a **conjunctive sense and not a disjunctive sense and cannot be read as "or"**

6.3 In light of the above applicant submitted that the word "*water sold in sealed container*" should be read in conjunction with word "*purified, mineral, distilled etc*" and it should not be read as a separate sentence/ clause. In other words, "*water sold in sealed container*" should be understood in the context of purified water also. Therefore, applicant contended that supply of purified water, unless sold in sealed container, should be eligible for exemption under Entry 99 of the Notification.

6.4 In support of this, the applicant placed a reliance on the Circular No. 52/26/2018 dated 09th August 2018 which has clarified the applicability of the aforesaid Notification.

The relevant extract of circular no.52/26/2018 dated 09th August 2018 has been reproduced below:

In this circular, attention is drawn to the entry at Sl. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28June 2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized



and water sold in sealed container] falling under HSN code 2201 attracts NIL rate of GST.

Accordingly, supply of water, other than those excluded from Sl. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at "NIL" rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST."

6.5 On perusal of the aforesaid Circular, applicant submitted that exemption under Sl. No. 99 of the Notification has been clarified to be applicable if the following conditions are fulfilled: -

- (i) Supply should be of drinking water;
- (ii) Supply should be for a public purpose; and
- (iii) Supply of drinking water should not be in sealed container.

6.6 In support of this applicant submitted that they have entered into an agreement with Municipalities and Panchayats to purify raw water by removing all impurities making it fit enough to drink. This purified water is supplied to general public in unsealed containers brought by the public themselves and therefore does not pertain to supply of water in sealed containers and applicant claims that they are exempted from GST.

PERSONAL HEARING

7. The applicant authorized Sri. Abhinav Srivastav, Advocate and Duly Authorised Representative, appeared for personal hearing proceedings before this authority and made the submissions as narrated above.

FINDINGS AND DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri. Abhinav Srivastav Advocate and DAR during the personal hearing. We also considered the issue



involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

10. On verification of the nature of the activity carried out by the applicant it was observed that applicant has entered into an agreement with local panchayats /municipalities to supply purified water to urban under-served people across various metro cities by installing Community Water System, which is a water treatment plant at economical price. In the process of water treatment, applicant pump the raw water from water sources like well/pond/bore well/others and collected in the raw water tank. This raw water is then pumped to CWS for removal of suspended solids, organic matter, chlorine, obnoxious taste and smell. The purified water is further sent to Reverse Osmosis membranes to remove total dissolved solids, bacteria and pathogens and then the same is sent to purified water storage tank. This purified water is supplied to general public in unsealed containers which are brought by the public themselves. Applicant charges Rs.8/- or such amount as is reasonable for supply of purified water in 20 litres cans.

11. With this in background applicant sought Advance Ruling on "Whether supply of purified water to public in empty unsealed cans is exempt under GST law".

12. The applicant relied upon the entry No. 99 of Notification No. 2/2017 of Central Tax (Rate) dated 28th June, 2017, by virtue of which the supply of water falling under HSN code 2201 attracts nil rate GST. The relevant extract of the said entry reproduced as under:

"Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] is exempt from GST".

13. This entry has been clarified by the CBEC vide Circular no. 52/26/2018 dated 09th August 2018 wherein, it is clarified as under:

"In this circular, attention is drawn to the entry at Sl. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28June 2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HSN code 2201 attracts NIL rate of GST.

Accordingly, supply of water, other than those excluded from Sl. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at "NIL" rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST."



14. On perusal of the aforesaid Circular NO. 52/26/2018 dated 09th August 2018, and entry NO. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 and the nature of the activity carried out by the applicant, it was observed that

applicant supplying purified drinking water to the general public at reasonable price after removing all the physical, chemical and biological impurities in unsealed containers which are brought by the public themselves. In the above said circular it is clearly mentioned that other than those excluded from the Sl. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at "NIL" rate. The following type of waters are excluded from the said notification and eligible to GST which are:

- i. Aerated water
- ii. Mineral water
- iii. Purified water
- iv. Distilled water
- v. Medicinal water
- vi. Ionic water
- vii. Battery water
- viii. de-mineralized water and
- ix. Water sold in sealed container.

15. In the instant case, applicant supplying purified drinking water to urban underserved people across various metro cities by installing the community water system. In the process applicant removes suspended solids, organic matter, chlorine, obnoxious taste and smell from raw water and then sent to Reverse Osmosis membranes to remove total dissolved solids, bacteria and pathogens. During this process raw water converted into purified drinking water and this purified drinking water is supplied to the public.

16. The contention of the applicant with reference to Sl. No. 99 of the Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 is that the term 'water sold in sealed container' runs along with the remaining terms of the notification. Further, the term 'and' prior to the term 'water' should be read in a manner that is conjunctive and in such a way that the phrase 'in a sealed container' is applicable for all the types of water enumerated in the entry. The term "*water sold in sealed container*" should be read in conjunction with word "*purified, mineral, distilled etc*" and it should not be read as a separate sentence/ clause.

17. Honourable Supreme Court in the case of *S.G.Glassworks Private Limited vs Collector of Central Ex., Nagpur* held that the word 'and' by itself may have been susceptible of giving rise to the argument that it was another condition to be satisfied in the first mould itself. But it having been used before the word 'where' it is disjunctive and lays down another requirement for a glassware to be produced by the use of semi-automatic process to be entitled for exemption.



18. We find that in ordinary usage 'and' is conjunctive. From the well-known dictum of the Supreme Court that grammar is a good guide to meaning but is a bad master to dictate, it will appear that there is no hard and fast rule as to the meaning of the word 'and' and this word gets its proper meaning from the particular context from which it has been used. Author Maxwell on the Interpretation of Statutes, p. 244 (Edn. 9) referred by the Honourable Allahabad High Court in the case of Sukhnandan V. Suraj Bali and stated as follows:

"fundamental principle of construction is that the words used in a Statute must be understood in their ordinary grammatical sense. It is clear that, in that sense, the word "and" is used as a conjunction. This will, however, not prevent the Court from departing from the ordinary grammatical meaning of a word if it appears, from the context or a consideration of the other provisions of the Statute that it was the intention of the Legislature to give it another meaning. Similarly, if the ordinary grammatical meaning of a word results in creating an absurdity or an anomaly or of rendering the legislation of no effect, a narrower or a broader meaning may be given to the word or it may be construed in such a way as to obviate the absurdity or anomaly on the principle that it could not have been the intention of the Legislature to create absurdities or anomalies or to render its enactments of no effect. In such a situation the word ' and" may well be construed in a disjunctive sense and be read as "or".

19. Applying the above said principle to the instant case that the word 'and' used before the 'water sold in sealed container' in the Sl. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 is disjunctive nature and lays down that 'water sold in a sealed container' is the another type of water excluded from the said entry along with the aerated water, mineral water, purified water, distilled water, medicinal water, ionic water, battery water, de-mineralized water. Therefore, supply of purified water whether in sealed container or unsealed container not entitled for GST exemption as the purified water excluded from the Sl. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017. Thus supplying of purified drinking water to the general public in an unsealed container is not entitled for exempt from GST.

20. Hence the following ruling

RULING

The supply of purified drinking water to public in empty unsealed cans is not entitled for exemption from GST.


(Dr. M.P. Ravi Prasad)

Member

MEMBER

Karnataka Advance Ruling Authority

Place: Bengaluru, Bengaluru - 560 009

Date: 18/03/2020



(Mashhood ur Rehman Farooqui)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

To, and said to be a member of the Bar of the Commonwealth of Massachusetts, and to be the **Applicant** in the above entitled cause.

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

3. The Commissioner of Central Tax, Bangalore North Commissionerate, Bengaluru.

4. The Asst. Commissioner, LGSTO-150, Bengaluru.

5. Office Folder

