RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 11370/2021

M/s Power Grid Corporation Of India Ltd., 400/200 Kv, Bassi, Damodarpura, Jaipur, Rajasthan - 303301

----Petitioner

Rajasthan High Court
सत्यमेव जयते
Web Copy - Not Official

Versus

1. State Of Rajasthan, (Notice To Be Served Through) The Joint Secretary (Tax), Finance Department, 1St Floor, Main Building, Government Secretariat, Jaipur-302005, Rajasthan
2. Union Of India, (Notice To Be Served Through) The Secretary, Ministry Of Finance, Department Of Revenue, North Block, New Delhi-110001
3. Rajasthan Authority For Advance Ruling, (Aar) Goods And Services Tax. Ncr Building, Statue Circle, C-Scheme Jaipur - 302005 (Rajasthan)

----Respondents

For Petitioner(s) : Mr. Narendra Singhvi with
Ms. Priyamvada Joshi
For Respondent(s) : Mr. Kinshuk Jain with
Mr. Saurabh Jain
Mr. Jai Lodha

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Judgment

Reserved on: 09.07.2024

Pronounced on: __07.2024

Avneesh Jhingan, J

1. This petition is filed seeking quashing of order dated 31.05.2021 passed by Rajasthan Authority for Advance Ruling (for brevity 'AAR') under Goods & Services Tax Act, 2017.

2. Brief facts are that the petitioner is registered under the Goods and Services Tax Act, 2017 and is engaged in transmission

---

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)

of electricity. During the course of business, petitioner engages contractors. In course of execution of contract supply of material ex-work is made. The contractor transports goods and raises invoice for transportation. The petitioner filed an application for an advance ruling on the issue as to whether in facts of the case, transportation of goods is exempt under Serial No.18 of Notification No.12/2007 Central Tax (Rate) (for short 'Notification'). The AAR held application under Section 97 of the Central Goods and Service Tax Act, 2017 (for short 'CGST Act') is not maintainable, as petitioner was not the supplier. Hence, the present petition.

3. Learned counsel for the petitioner submits, in case of non applicability of the exemption notification the petitioner shall be liable to pay tax on reverse charge basis, the services being in notified category. The contention is that in Sections 95 and 97 there is no restriction that the application for advance ruling can be made only by the supplier.

4. Learned counsel for the respondent objects that the impugned order is appealable. Per contra the advance ruling can be sought by supplier or proposed supplier. The argument is that the petitioner is not covered under definition of supplier.

5. As per learned counsel for the petitioner the appeal is provided against order passed under Section 98(4) and not against order under Section 98(2) of the CGST Act.

6. The issue involved is:-

> *"Whether recipient of good or services or both liable to pay tax on reverse charge basis can seek Advance Ruling?"*

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)

7. Chapter XVII of the CGST Act deals with advance ruling. Definitions are in section 95 and it starts with *"unless context otherwise requires".*

Under Clause (a) 'advance ruling' is a decision of the Authority or the Appellate Authority or the National Appellate Authority at instance of the applicant, on matters or on the issues specified in Sub-Section (2) of Section 97 or Sub-Section (1) of Section 100 or of Section 101C and in relation to supply of goods or services or both, being undertaken or proposed to be undertaken by the applicant.

Clause (b) defines Appellate Authority for advance ruling as referred to in Section 99.

Under Clause(c) 'Applicant' is defined as any person registered or desirous of obtaining registration under the Act.

Application under Clause (d) means an application made to the Authority under Section 97(1).

8. Section 97(1) provides that application for advance ruling can be filed by any applicant desirous of getting an advance ruling. An application stating question to be asked is to be made in the prescribed manner and accompanied by fee prescribed.

Section 97(2) prescribes the issues for which the question for advance ruling can be sought. Clause (b) of Sub-Section 2 *"applicability of notification issued under the provisions of this Act"* would be relevant for the present case.

9. Section 98 provides the procedure to be adopted on receipt of an application for advance ruling. Under sub section 2, the Authority after examining the application, record and providing opportunity of hearing to the applicant and the officer concerned,

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)

has to pass an order either admitting or rejecting the application. Proviso to Sub-Section 2 provides that the application for advance ruling shall not be admitted on the question raised, pending or decided in the case of the applicant under any of the provisions of the CGST Act. As per second proviso the application shall not be rejected without granting an opportunity of hearing. Third proviso stipulates for specifying the reasons in the order for rejecting the application. Sub-Section 3 obligates supplying of the order passed under Sub-Section 2, to the applicant and the concerned officer. As per Sub-Section 4, the Authority after examining the material placed before it and after providing an opportunity of hearing shall pronounce advance ruling, on the questions asked. Sub-Section 5 deals with the procedure to be adopted, in case there is a difference of opinion amongst the members of the Authority. Sub-section 6 obligates the authority to pronounce the advance ruling within ninety days of the receipt of the application. Sub-Section 7 prescribes that ruling shall be pronounced and signed by the members and certified in the prescribed manner.

10. It would be appropriate to consider the definitions of Reverse Charge, Supplier & Taxable Person. Section 2(98) defines "reverse charge" as liability of recipient to pay tax instead of the supplier, for categories of supply of goods or services or both notified under Sub-Section (3) or Sub-Section (4) of Section 9 of CGST Act or under Sub-Section(3) or Sub-Section (4) of Section 5 of the Integrated Goods & Services Tax Act.

Supplier as per Section 2 (105) is a person supplying goods or services or both and shall include an agent acting on behalf of supplier, in relation to goods or services or both supplied.

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)

Section 2(107) defines 'taxable person' as a person registered or liable to be registered under Section 22 or section 24.

11. Supplier having turnover exceeding twenty lakhs is obligated under section 22 to get registration in State or Union Territory where from supply of goods or services or both is made, except for special category States. Notwithstanding anything contained in Section 22, registration is compulsory for the categories of persons mentioned in section 24 of the CGST Act. Under Clause (iii) of section 24, person liable to pay tax under reverse charge has to get registration.

12. The petitioner, if not exempted by the notification is liable to pay tax on reverse charge basis. In other words, the liability to pay tax is of petitioner, inspite of being the recipient. The definition of 'advance ruling' relied upon to oust the petitioner from making application, needs to be analyzed in the backdrop that the petitioner being liable to pay tax on reverse charge basis shall be covered under the definition of taxable person.

13. A registered person or a person desirous of obtaining registration under the Act falls within ambit of the 'applicant' in Section 95. It is compulsory for the petitioner to get registered, under Section 24 of CGST Act, being liable to pay tax on reverse charge basis.

14. The interpretation of definition of 'Advanced Ruling' by the AAR has a fallacy. The definition of Advance Ruling is quoted below:-

> "95 (a) "*Advance Ruling*" means a decision provided by the Authority or the Appellate Authority (or the National Appellate Authority) to an applicant on matters or on questions specified in sub-section (2) of section 97 or

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)

> sub-section (1) of section 100 (or of section 101C), in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant".

The latter part of the definition in relation to supplier of goods or services or both being undertaken or proposed to be undertaken by the applicant does not restricts the scope of definition of applicant. There is no embargo that a person liable to pay tax on reverse charge basis cannot file an application for advance ruling.

15. It cannot be lost sight that Section 95 starts with "in this chapter, unless the context otherwise requires" thereby leaving leverage for an interpretation to be given to the defined word in context it is being used.

16. The Supreme Court in the case of **Vanguard Fire and General Insurance Company Limited, Madras vs. Fraser and Ross and Anr.,** reported in **AIR 1960 SC 971** held as under:-

> "The main basis of this contention is the definition of the word "insurer" in Section 2(9) of the Act. It is pointed out that the definition begins with the words "insurer means" and is therefore exhaustive. It may be accepted that generally the word "insurer" has been defined for the purposes of the Act to mean a person or body corporate etc. which is actually carrying on the business of insurance i.e. the business of effecting contracts of insurance of whatever kind they might be. But Section 2 begins with the words "in this Act, unless there is anything repugnant in the subject or context" and then come the various definition clauses of which (9) is one. It is well settled that all statutory definitions or abbreviations must be read subject to the qualification variously expressed in the definition clauses which created them and it may be that even where the definition is exhaustive inasmuch as the word defined is said to mean a certain thing, it is possible for the word to have a somewhat different meaning in different sections of the Act depending upon the subject or the context. That is why all definitions in statutes generally begin with the qualifying

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)

RAJASTHAN HIGH COURT
सत्यमेव जयते

words similar to the words used in the present case, namely, unless there is anything repugnant in the subject or context. Therefore in finding out the meaning of the word "insurer" in various sections of the Act, the meaning to be ordinarily given to it is that given in the definition clause. But this is not inflexible and there may be sections in the Act where the meaning may have to be departed from on account of the subject or context in which the word has been used and that will be giving effect to the opening sentence in the definition section, namely, unless there is anything repugnant in the subject or context. In view of this qualification, the court has not only to look at the words but also to look at the context, the collocation and the object of such words relating to such matter and interpret the meaning intended to be conveyed by the use of the words under the circumstances. Therefore, though ordinarily the word "insurer" as used in the Act would mean a person or body corporate actually carrying on the business of insurance it may be that in certain sections the word may have a somewhat different meaning."

(emphasis supplied)

Rajasthan High Court Web Copy - Not Official
सत्यमेव जयते

17. The matter needs consideration from another angle. Under Section 9(3) of the CGST Act, the Government on recommendation of the Council notifies the categories of goods or services or both, for payment of tax on reverse charge basis. It is stipulated that all provisions of the Act shall apply to the recipient of the goods or services or both, deeming to be the person liable to pay tax. The recipient liable to pay tax on reverse charge basis is given a deeming fiction of supplier for the purpose of payment of tax. The fiction under Section 9(3) of the CGST Act has to be given full play, by bringing the dealer liable to pay tax on reverse

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)

charge basis within the ambit of Chapter XVII for seeking Advance Ruling.

18. It would be fair to deal with the objection of the respondent of alternative remedy. The appeal against the Advance Ruling is provided under Section 100 of the CGST Act. The concerned Officer, the Jurisdictional Officer or the applicant can prefer an appeal against the ruling given under Section 98(4). No appeal is provided against rejection of the application under Section 98(2) of the CGST Act. The application of the petitioner was ousted at threshold under Section 98(2), as not maintainable. Section is unambiguous that appeal can be filed only against the orders pronounced under Section 98(4) of the CGST Act.

19. In view of the above, the impugned order is set aside. The matter is remitted back to AAR for deciding the application afresh under Section 98(4) of the CGST Act.

20. The writ petition is allowed.

(ASHUTOSH KUMAR),J **(AVNEESH JHINGAN),J**

Chandan/Riya /

Whether Reportable: **Yes**

(Uploaded on 20/07/2024 at 11:41:39 AM)
(Downloaded on 31/10/2026 at 06:46:47 PM)