

**GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING,**  
GOODS AND SERVICES TAX,  
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,  
AHMEDABAD – 380 009.



**ADVANCE RULING (APPEAL) NO. GUJ/GAAAR/APPEAL/2022/04**  
**(In Application No. Advance Ruling/SGST&CGST/2021/AR/03)**

Date : 24.02.2022

Name and address of the appellant	:	M/s. <b>Shree Arbuda Transport</b> Plot No. 51, Office No. 6, Kesar Arcade, Gandhidham (Kachchh) - 370201
GSTIN of the applicant	:	24ADUFS5459G1ZH
Advance Ruling No. and Date	:	GUJ/GAAR/R/82/2020 dated 17.09.2020
Date of appeal	:	06.02.2021
Date of Personal Hearing	:	13.01.2022 (Through Video Conferencing)
Present for the applicant	:	CA Avinash Poddar

1. At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017' and the 'GGST 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, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. M/s. Shree Arbuda Transport, a partnership firm, having Principal Place of Business at Plot No.51, Office No.6, Kesar Arcade, Gandhidham (Kachchh) [hereinafter referred to as 'the appellant'] intending to provide services like Transportation and Logistics services, Clearing and Forwarding services and Other allied services for import & export of cargo and for coastal movements. The appellant plans to own a fleet of commercial vehicles like trailers and also hires necessary vehicles from market as well. The appellant has submitted that they are in process of entering into an agreement with a specific client engaged in the business of Export of Rice. The appellant has planned to provide following services **at a single consolidated rate** (per container) for the entire **bundle of services**:

- (1) Clearing and Forwarding Agency with the help of sister concern, as the CHA License is in the name of a sister concern M/s. SRS Cargo.
- (2) Transportation of cargo containing agricultural produces, Rice, Tea etc.
- (3) Providing labours for loading of cargo into containers.
- (4) Transportation of empty container from CFS / empty container yard to client's warehouses at various locations

- (5) Other allied services like:
- Lift on/Lift off charges to CFS/empty container yard
  - Survey Tally formality for goods loaded in container
  - Obtaining Customs permission for self-sealing
- (6) Obtaining Customs related certificates/clearing such as Bill of Lading, Health Certificate, Non GMO, Phytosanitary Certificate etc. with complete documentation for export shipment.

3. The appellant has raised following questions before the Gujarat Authority for Advance Ruling [**GAAR**], Goods and Service Tax:

(1) *If we want to provide all above services for a “Single consolidated Rate” as a package, whether such supply would be treated as “Mixed supply” as per the provisions of Section 2(74) of the CGST Act, 2017, since the services are not naturally bundled and are capable of being provided independently? Or it shall be treated as “Composite supply”?*

(2) *What shall be the applicable HSN code and corresponding GST Rate for such bundle of services? (Highest Rate of Service in the bundle is 18%).*

(3) *Whether the firm shall be eligible to avail ITC on the following:*

- *Regarding GST paid on Commercial vehicles and Repair & maintenance cost of such vehicles used for transportation of goods/containers.*
- *ITC on inward supply from CFS/Port/Labour contractor etc. related to such packaged outward supply.*

(4) *Whether the Exporter client shall be eligible to claim refund of the GST paid by on our (appellant's) outward supply invoices?*

4. In the Ruling passed by the GAAR vide **Advance Ruling No. GUJ/GAAR/R/82/2020 dated 17.09.2020**, it has been *inter alia* observed that the issue brought before GAAR has not yet materialised so far i.e. the application for Advance Ruling had been filed on 13.10.2019 but no agreement has been reached so far by the applicant with the exporter of rice after nearly a year of filing of the application (Para 13 of Ruling refers). The GAAR has referred the provisions of Section 97 of the CGST Act, 2017, and observed that the provisions for seeking Advance Ruling made under the Act is limited to the activities conducted by the applicant only; that the applicant has asked hypothetical questions seeking Advance Ruling on an issue which had not materialised till date; that no agreement had been signed in this regard and therefore no copy had been submitted to GAAR in the instant case. Therefore, the GAAR is of the opinion that without any agreement or any other relevant documents having been provided by the applicant, it would not be possible to give a decision in this matter (Para 14 of Ruling refers). Thus, the GAAR has given answer to all the four questions as under:

**“Answer:** *In view of non-submission of copies of agreement or any other relevant documents with regard to the services to be supplied/provided by the applicant, no decision can be taken in the matter for the reasons discussed hereinabove.”*

5. M/s. Shree Arbuda Transport has filed an **appeal** with us against the aforesaid Ruling under the provisions of Section 100 of the CGST and GGST Acts, 2017. In the Grounds of Appeal, the appellant has inter alia submitted that an Advance Ruling can be sought when a taxpayer wants to know the implication of prevailing tax law in the business proposition; that non-submission of an agreement cannot be a ground for declaring questions as hypothetical. Now, in this appeal proceedings, the appellant has submitted a Draft Agreement (unsigned), and stated that it would be implemented once the provision of law are clear.

6. **The appellant has made following submissions:**

**Question-1: Mixed Supply or Composite Supply**

Section 2(30) of the CGST Act, 2017 defines 'composite supply' as under:

*“(30) “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied In conjunction with each other in the ordinary course of business, one of which is a principal supply”*

Therefore, 'Composite supply' means a supply of two or more taxable supplies of goods or services or both which are:

- naturally bundled; and
- supplied In conjunction with each other in the ordinary course of business; and
- one of which is a principal supply.

Section 2(90) of the CGST Act defines 'principal supply' as under:

*“(90) “principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.”*

Thus, a plain reading of composite supply and principal supply indicates that a composite supply has only one principal supply. If a particular contract has more than one principal supply, the contract will cease to be a composite supply.

'Mixed supply' is defined under Section 2(74) of the CGST Act as under:

*“(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.”*

Thus, for a supply to qualify as 'mixed supply', a crucial condition is that it should be supplied for a single price. In the present case, the supply of subject services in the agreement is made for a single price

The appellant is of the opinion that the *supply is mixed supply* on following grounds-

- Intentions of applicant is to quote a single price for the bundled service.
- The bundle service is not a natural bundle.
- Appellant will raise fixed rate consolidated invoice for supply of services and **not provide Item wise / service wise bifurcation.**

**Question-2: Applicable HSN**

As per Section 8(b) of CGST Act, 2017, “*a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.*”

In the present case, there are few services which are exempt from GST as the export is of Rice; and few services are taxable. Among all the services in the bundled service, highest rate of Tax is applicable on Clearing and Forwarding services i.e. 18%. Therefore, the entire bundle will be taxed at 18%. As the bundled service in question is a combination of services, it will be classified under **HSN 999799 bearing description ‘Other Services nowhere else classified’.**

**Question-3: Availment of ITC by appellant**

In view of the fact that the bundle services consists of few supplies which are exempt under GST, the appellant intends on providing the entire bundle service at a fixed consolidated rate. The appellant further intends on charging GST at the rate of 18% on entire bundle.

The appellant has submitted that they fulfill all the conditions of Section 16(2) of the CGST Act, 2017 and they are eligible to claim Input Tax Credit with regards to the Inward Supplies procured for making the subject outward supply. However, as per the provision of Sec 17(2) of CGST Act, 2017, the Input Tax Credit attributable to exempt supplies must be reversed by the taxpayer.

The appellant further submitted that as the tax on entire bundles service is being discharged at 18%, the supplies which would have enjoyed exemption is also being taxed at 18%. Therefore, the appellant is not rendering any exempt supplies and therefore, they wish to claim the entire ITC

**Question-4: Eligibility of exporter client to claim refund of GST paid by appellant**

The appellant submitted that as the tax is discharged on the entire bundle, the taxable or exempt supplies are not in question. The service recipient is going to be engaged in making Zero-rated supply would be entitled to avail refund of accumulated input tax credit with regards to the inward services procured from the applicant in terms of Section 54(3) of the CGST Act.

The appellant submitted that in the application before Advance Ruling, he had mentioned all the above points. There is no justification in discussions and findings of the Advance Ruling Authority; and the Ruling pronounced by Advance Ruling Authority is incorrect. Accordingly, the appellant prayed to set aside the Order (Ruling) and to grant necessary relief.

7. There has been change in one of the two Members of this authority consequent upon the transfer and posting of the Chief Commissioner, Gujarat Goods and Services Tax, after Personal Hearing has been held in this case. The appellant was therefore asked whether they require fresh hearing or not. The appellant vide their mail dated 08.01.22 informed that they would like to be heard again. Accordingly, personal hearing in the matter was held on 13.01.22 through video conferencing during which the authorized representative of the appellant reiterated the contents of the written submissions.

**Time limit for filing appeal**

8. In the Form GST ARA-02 regarding Appeal to the Appellate Authority for Advance Ruling, at Sr.No.2, the appellant has shown the date of communication of the Advance Ruling as '21.01.2021'. In the Statement of Facts, it has been inter alia mentioned that the Ruling dated 28.09.2020 (forwarding letter date) passed by the Advance Ruling Authority was not delivered to the place of business of applicant, but, collected from the office of the Advance Ruling Authority on 21.01.2021.

On going through the records of Registry, we have seen that the Ruling of GAAR was sent to M/s. Shree Arbuda Transport, Plot No. 51, Office No.6, Kesar Arcade, Gandhidham - 370201, by Registered Post A.D. on 30.09.2020. However, the envelop has been returned by Post Department to GAAR on 28.10.2020 with Remarks, "addressee cannot be located". Subsequently, the appellant has collected the Ruling from Registry on 21.01.2021.

So, we observe that the present appeal filed on **06.02.2021** against the Ruling dated 17.09.2020, has been filed within the prescribed time limit of 30 days from the date of communication of Ruling, as prescribed under Section 100(2) of the CGST Act, 2017.

9. Even otherwise, the last date for filing appeal stands extended w.e.f. 15.03.2020 in view of the Orders dated 23.03.2020 and 27.04.2021 of Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3/2020* read with CBIC Circular No. 157/13/2021-GST dated 20.07.2021.

**FINDINGS:**

10. We do not agree with the views of Gujarat Authority for Advance Ruling to the effect that Ruling cannot be provided in absence of signed Agreement. The very purpose for creating the Authority for Advance Ruling is to help the applicant in planning his activities and bringing in certainty in determining tax liabilities. So, there is nothing wrong if any the applicant seeks Advance Ruling by describing his activities in detail before signing an Agreement. It is open for the Advance Ruling Authority to seek more details, clarification or supporting documents from the applicant. In this case, the appellant has described the nature of services to be provided by them and in this appeal proceedings submitted a Draft Agreement (unsigned). So, we proceed to decide this appeal on merit on the basis of submissions and Draft Agreement submitted by the appellant.

11. We have carefully considered the written as well as oral submissions made by or on behalf of the appellant viz. M/s. Shree Arbuda Transport, Gandhidham. The first and foremost issue involved in this appeal is whether the bundle of services to be provided by the appellant for a single consolidated price would amount to provision of 'Composite Supply' or 'Mixed Supply' under the provisions of the CGST Act, 2017 and GGST Act, 2017.

12. **The appellant intends to carry out following activities at a single consolidated rate (per container):**

- (1) Clearing and Forwarding Agency with the help of sister concern as the CHA License is in the name of a sister concern.
- (2) Transportation of cargo containing agricultural produces, rice, tea etc.
- (3) Providing labours for loading of cargo into containers.
- (4) Transportation of empty container from CFS/empty container yard to client's warehouses at various locations
- (5) Other allied services like:
  - Lift on/Lift off charges to CFS/empty container yard.
  - Survey Tally formality for goods loaded in container.
  - Obtaining Customs permission for self-sealing.
- (6) Obtaining Customs related certificates/clearing such as Bill of Lading, Health Certificate, Non GMO, Phytosanitary Certificate etc. with complete documentation for export shipment.

13. For more understanding, we have referred the **Draft Agreement** submitted by the appellant. Parties to the said Draft Agreement have been mentioned as M/s. Supple Tek Industries Pvt. Ltd., Amritsar (referred to as "Principal") and M/s. Shree Arbuda Transport, Gandhidham (referred to "Service Provider"). The services to be provided by the service provider / appellant have been described as under:

***QUOTE***

**ANNEX A-I: SCOPE OF WORK**

The Service Provider shall provide end to end solution for the Principal. Such a package of services shall comprise of the following broad categories:

**MAIN SERVICES**

1. **Agency Service :-** Clearing and Agency Services related to Export/Import Consignment.
2. **Documentation :-** Obtaining Custom related certificates / clearing like Bill of Lading, Health Certificate, Non GMO, Phyto, Drawback updations, Certificate of Origin, mention in Shipping Bill - MEIS/DFIA/EPCG/Advance Authorisation as per government schemes, complete documentation for export shipment and legalization of documents with foreign consulates, Obtaining Custom Permission for Self Sealing.
3. **Weighment :-** Weighment of empty / loaded containers at warehouse and loaded at port gates.
4. **CFS Services :-** Lift on charges to CFS / Empty Container Yard.
5. **Labour Services :-** Providing labour through independent Service Providers for loading of cargo into containers.

6. **Movement Making Services :-** Filing of shipping instructions, filing of VGM, clearing of EGMs and other movement making services.
7. **Survey of Goods Loaded :-** Survey Tally formality for goods loaded in the container.

### **OTHER SERVICES**

1. Transportation of cargo of Principal's commodities / containers from factory/warehouse to CFS / port; and Transportation of empty container from CFS / Empty container yard to party warehouses in various locations.
2. Examination of empty export worthy containers / cleaning/ paper and plastic sheet placement.
3. Monitoring cut off time to tender containers for both the parties.
4. Placement of booking with shipping lines for export containers / import containers.
5. Courier of all relevant documents to the Principal.

#### **A. Responsibilities of the Service Provider**

- i. Coordinate with vessel agent, track vessel position, and update Principal on estimated arrival time of the mother/feeder vessel at port.
- ii. Coordinate with Principal's independent surveyor about the arrival of the vessel and monitor cut off time to tender containers.
- iii. Obtain Export permit, CCIE clearance, authorization to clear shipment after securing original shipping documents, tax exemption certificate, undertaking, etc.
- iv. Submit necessary documents to Customs authority for assessment (Bill of Lading).
- v. Draw sample of commodities for radiation and quarantine test (if possible avoid it by providing for the consignments).
- vi. Conduct Customs clearance of the commodities and secure original Customs declaration for the commodities.
- vii. Submit required documents to Port Authority and Shipping Line for taking delivery of containerized cargo to be exported.
- viii. Arrange trucks for transportation of commodities, inspect inside of the trucks, clean and disinfect, and ensure suitability for carrying commodities without incurring damage.
- ix. Make arrangement for Weighment of container load.
- x. Update Principal on daily dispatch/delivery status of commodities mentioning truck details with contact numbers.
- xi. Maintain effective coordination with all stakeholders, such as independent Surveyor, Shipping Agent/Vessel Agent, Port & Customs Authority and Consignee.
- xii. Off-load commodities at the final destination points (Port/ CGS) with utmost care, taking appropriate measures during the rainy season to prevent the commodities from getting wet.
- xiii. Provide final Container dispatch status (vessel wise) reports to Principal.

- xiv. Submit Provisional Claim to shipping agent for any ocean/marine losses of commodities such as short/excess landing, and damaged commodities (torn, slack, wet, moldy, etc.) within 72 hours after discovering potential loss.
- xv. Submit invoice duly signed by authorized representative for payment.

**UNQUOTE**

14. In the Draft Agreement submitted by the appellant, the details of consideration has been described as under:

**QUOTE****ANNEX A-2: DETAILS OF CONSIDERATION**

The Service Provider shall be paid at a single consolidated rate for each 20' container of export consignment. The Service Provider shall prepare and submit invoices to the Principal on per consignment basis. Details of consideration payable for the different locations have been incorporated hereunder:

Sr. No.	Location	Size of Container	Diesel Base Rate (Rs.)	Base Rate per Container (Rs.)
01	Kandla-Gandhidham-Kandla	20'	61.82	7,675/- (plus 18% GST*)
02	Mundra-Gandhidham-Mundra	20'	54	11,150/- (plus 18% GST*)
			> 61.82	11,432/- (plus 18% GST*)
02(A)	Mundra-Gandhidham-Kandla	20'	Sr.No.2 + addition of Rs.688 per container (plus 18% GST*)	

\*GST Rates shall be applicable as notified by the Government from time to time

- Above base rate per containers is the minimum guaranteed consideration per container, as per the diesel rate mentioned in above table.
- For every Re.1 increase or decrease in the rate of diesel per litre, the consideration payable per container shall increase / decrease as under, subject to, consideration payable will never be less than base rate per container given in above table:

Sr.	Port of Loading	Increase/decrease in rate per container
01	Kandla-Gandhidham-Kandla	Rs.50/-
02	Mundra-Gandhidham-Mundra & Mundra-Gandhidham-Kandla	Rs.100/-

- For related Certificates and forwarding services (shipping line services), Service Provider will obtain the same and charge its amount as per understanding of both the parties.
- For any other service from the service provider, it will be charged as per mutually agreed rates and confirmation of both the parties.
- Above charges includes container movement services.



- Diesel rate shall be considered on 1<sup>st</sup> and 16<sup>th</sup> of every month.

However, the above rates are subject to change based on various cost factors like changes in Labour rate, lift on rate, transportation rate etc. with the mutual approach of the Principal and Service Provider.

For the Service Provider  
By: Mr. Himmatlal Khandor

For the Principal  
Mr. Mohd. Yaseen

(Partner)

(Authorized Signatory)

**UNQUOTE**

15. After going through the above-mentioned submissions and draft agreement, it is clear that the appellant intends to provide bundle of services in conjunction with each other for a single rate i.e. per container rate. The rate would vary depending upon the locations and price of diesel. However, it is not the case that the appellant would charge separately for different constituent services included in the bundle.

16. Classification of the constituent services included in the bundle of services in this case, as per the **Scheme of Classification of Services** [as given in the Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017] is as follows:

**Annexure [Extracts]**

<b>Chapter, Section, Heading or Group</b>	<b>Service Code (Tariff)</b>	<b>Service Description</b>
Chapter 99		All Services
Heading 9965		Goods Transport Services
Group 99651		Land transport services of Goods
	<b>996511</b>	Road transport services of Goods including letters, parcels, live animals, house hold and office furniture, containers and the like by refrigerator vehicles, trucks, trailers, man or animal drawn vehicles or any other vehicles
Heading 9967		Supporting services in transport
Group 99671		Cargo handling services
	996711	Container handling services
	996712	Customs house agent services
	996713	Clearing and forwarding services
	996719	Other cargo and baggage handling services
Group 99679		Other supporting transport service
	996791	Goods transport agency services for road

		transport
	996799	Other supporting transport services nowhere else classified
Heading 9985		Support services
Group 99851		Employment services including personnel search, referral service and labour supply service
	998519	Other employment and labour supply services nowhere else classified
Heading 9997		Other services
Group 99979		Other miscellaneous services
	999799	Other services nowhere else classified

17. After going through the nature of services to be provided by the appellant, we find that the applicable rates of GST on such constituent services, if provided separately, are as follows:

**TABLE**

Heading or Service Code (Tariff)	Nature of service to be provided by the appellant	Rate (per cent.)			Condition	Notification No. with Sr.No.
		CGST	SGST	IGST		
Heading 9965 or Heading 9967	(i) Services provided by a Goods Transport Agency (GTA) by way of transport in a goods carriage of - (a) agricultural produce; ..... (d) milk, salt and food grain including flour, pulses and rice; .....	Nil	Nil	Nil	Nil	Sr.No.21 of Notification No. 12/2017-Central Tax (R) dated 28.06.2017. Sr.No.21 of Notification No. 12/2017-State Tax (R) dated 30.06.2017. Sr.No.22 of Notification No. 9/2017-Integrated Tax (R) dated 28.06.2017.
Heading 9967	Supporting services in transport <b>other than (i) above</b>	9%	9%	18%	---	Sr.No.11(ii) of Notification No. 11/2017-Central Tax (R) dated 28.06.2017.
996711	Container handling services	9%	9%	18%	---	Sr.No. 11(ii) of Notification No. 11/2017-State Tax (R) dated 30.06.2017.
996712	Customs house agent services	9%	9%	18%	---	
996713	Clearing and forwarding services	9%	9%	18%	---	
996719	Other cargo and baggage handling	9%	9%	18%	---	

	services					Notification No. 8/2017-Integrated Tax (R) dated 28.06.2017.
996799	Other supporting transport services nowhere else classified	9%	9%	18%	---	
Heading 9985	Support services other than (i) and (ii) above	9%	9%	18%	---	Sr.No.23(iii) of Notification No. 11/2017-Central Tax (R) dated 28.06.2017.
Service Code (Tariff) 998519	Other employment and labour supply services nowhere else classified	9%	9%	18%	---	Sr.No. 23(iii) of Notification No. 11/2017-State Tax (R) dated 30.06.2017.  Sr.No.23(iii) of Notification No. 8/2017-Integrated Tax (R) dated 28.06.2017.
Heading 9997	Other services (washing, cleaning and dyeing services; beauty and physical well-being services; and other miscellaneous services including services nowhere else classified).	9%	9%	18%	---	Sr.No.35 of Notification No. 11/2017-Central Tax (R) dated 28.06.2017.  Sr.No.35 of Notification No. 11/2017-State Tax (R) dated 30.06.2017.
Service Code (Tariff) 999799	Other services nowhere else classified	9%	9%	18%	---	Sr.No.35 of Notification No. 8/2017-Integrated Tax (R) dated 28.06.2017.

18. From the above Table, it can be seen that the services provided by a Goods Transport Agency (**GTA**) by way of transport of **Rice** in goods carriage attracts **Nil rate** of GST; whereas, all **other services** like Clearing & Forwarding, Labour Supply for loading & unloading, obtaining Customs related certificates and allied/support services attract **18% GST**. As the appellant intends to supply all these services as a bundle for a single consolidated rate, supply of such bundled services would be either 'composite supply' or 'mixed supply', as defined under the provisions of Section 2(30) and Section 2(74), respectively, of the CGST Act, 2017.

19. Definition of the term '**composite supply**', as given in Section 2 of the CGST Act is as under:

“(30) “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

*Illustration. - Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;”*

To treat any supply as ‘composite supply’ one of the essential requirements is that two or more taxable supplies of services should be naturally bundled in the ordinary course of business and one of which should be a ‘principal supply’. We observe that the services to be supplied by the assessee are generally NOT bundled in the ordinary course of business. In the ordinary course of business, services of Goods Transport Agency, Clearing & Forwarding, Labour supply etc. are treated as different services and generally provided at separate rates. So, we are of the view that the bundled services to be provided by the appellant does not fall under the definition of ‘composite supply’. The appellant is also of the view that the bundle of services provided by them does not fall under the definition of ‘composite supply’.

20. Now, we shall examine the possibility to treat the bundle of services as ‘**mixed supply**’. Its definition, as given in Section 2 of the CGST Act, 2017, is as under:

“(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

*Illustration. - A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;”*

To consider any supply of service as mixed supply, there should be two or more individual supplies or any combination thereof, made in conjunction with each other for a single price where such supply does not constitute a composite supply. We find that all the requirements of ‘mixed supply’ fulfil in this case. It is clear that there is two or more individual supply of services in this case, which can be supplied separately, but the appellant intends to make such supplies as a combination or in conjunction with each other for a single price. This supply does not constitute a composite supply, as discussed hereinabove. We find that the appellant intend to supply of various different services in conjunction with each other for a single price, which is an important requirement for treating this supply as mixed supply. Thus, we agree with the contention of the appellant that their proposed supply of bundled services for a single price would be treated as ‘mixed supply’ under the provisions of CGST/GGST Acts.

21. Now, coming to the question regarding rate of GST on such mixed supply, we reproduce Section 8 of the CGST Act, 2017, as under:

**“SECTION 8. Tax liability on composite and mixed supplies. —** The tax liability on a composite or a mixed supply shall be determined in the following manner, namely :—

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.”

22. In view of the above statutory provision, it is very clear that such mixed supply would be treated as supply of that particular supply which attracts the highest rate of tax and thus, would attract the highest rate on the value i.e. single price of the entire bundle of mixed supply. In the present case, the **highest rate** attracted is **18% IGST or 9% CGST & 9% SGST** for all services other than the service of transportation of Rice by a Goods Transport Agency, which attracts Nil rate of GST. Therefore, we are of the view that the entire bundle of services provided as a mixed supply would attract 18% rate. The appellant is also of the view that the entire bundle of services would be taxed at 18%.

23. As regards classification / HSN of the mixed supply, the appellant has contended that as the bundled service in question is a combination of services, it will be classified under HSN 999799 bearing description, “Other Services nowhere else classified” which attracts the rate of 18%. We find that the Service Code (Tariff) 999799 falls under the Group 99979 having description, “Other miscellaneous services”, which is less relevant in the present case. In view of provisions of Section 8(b), the mixed supply would be treated as supply of that particular supply which attracts the highest rate of tax. In this case, there is no single supply which attracts the highest rate of 18%; but there are more than one supplies which attract the highest rate of 18%. In order to determine a particular supply for the purpose of classification of mixed supply in present case, we felt that the predominant supply among the supplies attracting the highest rate can be considered. So, we are of the view that the mixed supply intended to be provided by the appellant would be classifiable under **HSN / Service Code (Tariff) 996719** with description as ‘*Other cargo and baggage handling services*’, which attracts 18% rate.

24. The next question is that whether the appellant would be able to avail Input Tax Credit (‘ITC’)? In this regard, the appellant has contended that the entire bundled service is being discharged at 18%; that the supplies which would have enjoyed exemption (transportation of rice by GTA as a separate supply) is also being taxed at 18% (under mixed supply); therefore they would not rendering any exempt supplies; and therefore they wish to claim ITC. The apprehension of the appellant is that part ITC should not be denied by tax authorities on the ground that the individual supply of transportation of rice by GTA attracts Nil rate of GST. In this case, the appellant has chosen to provide various services in conjunction of each other for a single price and such services are to be treated as mixed supply, as held by us. The single price to be charged by the appellant attracts the highest rate of 18% and the said single price includes the value of transportation of rice. So, there should be no question of denying ITC merely on the ground that one of the constituent service of mixed supply attracts Nil rate of tax, if provided separately.

25. Now coming to the last question as to whether the exporter client would be eligible to claim refund of GST paid by appellant on their outward supply. We find that this question is not related to appellant, but it is related to the exporter, who has not filed the application for Advance Ruling before GAAR or appeal before us. We are of the view that the appellant is not entitled to raise this question as to whether their exporter client shall be eligible to claim refund of GST paid by them or not.

26. In view of the foregoing discussion, we allow the appeal filed by M/s. Shree Arbuda Transport, Gandhidham, by modifying the Advance Ruling No. GUJ/GAAR/R/82/2020 dated 17.09.2020 passed by the Gujarat Authority for Advance Ruling as under:

**Question 1:** If we want to provide all above services for a “Single consolidated Rate” as a package, whether such supply would be treated as “Mixed supply” as per the provisions of Section 2(74) of the CGST Act, 2017, since the services are not naturally bundled and are capable of being provided independently? Or it shall be treated as “Composite supply”?

**Answer:** Such supply would be treated as ‘mixed supply’ as per the provisions of Section 2(74) of the CGST Act, 2017.

**Question 2:** What shall be the applicable HSN code and corresponding GST Rate for such bundle of services? (Highest Rate of Service in the bundle is 18%).

**Answer:** The applicable HSN / Service Code (Tariff) would be **996719** and corresponding GST Rate for such ‘mixed supply’ would be the highest rate of the constituent supplies, which is presently **18%**.

**Question 3:** Whether the firm shall be eligible to avail ITC on the following:

- Regarding GST paid on Commercial vehicles and Repair & maintenance cost of such vehicles used for transportation of goods/containers.
- ITC on inward supply from CFS/Port/Labour contractor etc. related to such packaged outward supply.

**Answer:** Input Tax Credit on inputs, input services and capital goods cannot be denied merely on the ground that one of the constituent service of the mixed supply attracts Nil rate of tax if provided separately.

**Question 4:** Whether the Exporter client shall be eligible to claim refund of the GST paid on our (appellant’s) outward supply invoices?”

**Answer:** This question can be answered at the end of exporter. The appellant is not entitled to raise this question.

( **Milind Torawane** )  
MEMBER

( **Seema Arora** )  
MEMBER

GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING

Place: Ahmedabad

Date: 24.02.2022

**Note:** The provisions of both the Central GST Act, 2017 and the Gujarat GST Act, 2017 are similar. Therefore, unless a mention is specifically made, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

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