

**THE AUTHORITY FOR ADVANCE RULING IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 28/2020**

**Dated : 23.04.2020**

Present:

1. Dr.M.P.Ravi Prasad  
Addl. 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	Sri Ghalib Iqbal Sheriff M/s EMPATHIC TRADING CENTRE No.63/3 & 63/4, Noor Building, J.C.Road, Bengaluru - 560 002.
2.	GSTIN or User ID	29ALOPS5446H1ZE
3.	Date of filing of Form GST ARA-01	27.11.2019
4.	Represented by	Sri.Ghalib Iqbal Sheriff, Proprietor
5.	Jurisdictional Authority - Centre	RANGE-CSD1
6.	Jurisdictional Authority - State	LGSTO-110 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 vide CIN SBIN19072900209947 dated 18.07.2019 and Rs 5,000-00 under SGST Act vide CIN No. SBIN19072900209947, dtd.18.07.2019

**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. Sri Ghalib Iqbal Sheriff, proprietor of M/s Empathic Trading Centre, No.63/3 & 63/4, Noor Building, J.C.Road, Bengaluru-560002 and having a GSTIN 29ALOPS5446H1ZE, has filed an application for Advance Ruling under Section 97 of the CGST Act,2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of



the KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a proprietary concern registered under the provisions of the Goods and Services Act, 2017. The applicant states that he is engaged in the business of supplying goods under the trade name "Empathic Trading Centre" and is also a supplier of service of renting of immovable property. He states that there is no connection whatsoever between the two lines of business and they are two separate and distinct business activities. He also states that he is currently under composition scheme, having migrated to the composition scheme with effect from 01.04.2019 by virtue of Notification No.2/2019- Central Tax (Rate) dated 07.03.2019 as his aggregate turnover is much less than Rs.50,00,000-00 per annum.

3. The applicant has sought advance ruling in respect of the following questions:

1. *Whether he is eligible to be in the composition scheme as his aggregate turnover is much less than Rs.50,00,000-00?*
2. *Whether the rate of composition tax applicable is 1% for the turnover of goods (sales) and 6% for the turnover of service (rent). The two separate taxes amounts to be totaled and paid or is it 6% as a whole for the aggregate turnover of goods and service turnover that is to be paid?*

4. The applicant furnishes some facts relevant to the stated activity.

- a. The applicant states that they are into two lines of business, one for the supply of goods and other for the renting of immovable property. He states that he is eligible for composition scheme as his aggregate annual turnover is much less than Rs.50 Lakhs as the scheme is applicable to both sale of goods and renting of immovable property service provision.
- b. The applicant contends that the supply of goods (sales) and the supply of service (rent) are unrelated and totally unconnected and hence he is liable to pay 1% as composition tax on supply of goods and 6% on the supply of service (rent), and the two amounts totaled and paid.

**PERSONAL HEARING: / PROCEEDINGS HELD ON 02.01.2020**

5. Sri Ghalib Iqbal Sheriff, proprietor of the above concern appeared for personal hearing proceedings on 02.01.2020 before this authority and reiterated the facts.

**FINDINGS & DISCUSSION**

6. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by him when he appeared for the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

6.1 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

6.2 The applicant, admittedly has two lines of business, one for the supply of goods and other for the supply of services. There is no dispute that both the activities of the applicant are taxable and also supplied by the same person. The applicant states the annual aggregate turnover of both the activities put together is not more than Rs.50 Lakhs.

7. The question of eligibility of the applicant to pay tax under section 10 of the CGST Act, 2017 is examined and the following are noticed:

7.1 Section 10 of the CGST Act, reads as under:

*“(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,-*

*(a) one per cent. of the turnover in State in case of a manufacturer,*

*(b) two and a half per cent. of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and*

*(c) half per cent. of the turnover in State in case of other suppliers,*



subject to such conditions and restrictions as may be prescribed:

*Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees, as may be recommended by the Council.*

*Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.*

*(2) The registered person shall be eligible to opt under sub-section (1), if-*

- (a) save as provided in sub-section (1), he is not engaged in the supply of services;*
- (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;*
- (c) he is not engaged in making any inter-State outward supplies of goods;*
- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52;*
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council;*
- (f) he is neither a casual taxable person nor a non-resident taxable person.*

*Provided that where more than one registered person are having the same Permanent Account Number (issued under the Income-tax Act 1961(Central Act 43 of 1961)), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.*

7.2 The applicant admittedly is supplying services and hence the eligibility for composition scheme is dependent on the satisfaction of the condition stipulated in the second proviso to sub-section (1) of section 10. If the turnover of services of the applicant exceeds ten per cent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher, then he shall not be eligible to composition scheme. Even if the applicant obtains separate registration, one for the goods and other for the services, he would not be eligible for composition for both the lines of business. Hence the applicant is not eligible for composition under section 10 of the CGST Act if the turnover of services of the

applicant exceeds Rs.5 Lakhs or ten percent of turnover is the state, whichever is higher.

8. Coming to the notification no.2/ 2019 – Central Tax (Rate) dated 07.03.2019, the said notification prescribes the rate of tax for the “first supplies of goods or services or both upto an aggregate turnover of fifty lakh rupees made on or after the 1<sup>st</sup> day of April in any financial year, by a registered person” and is not issued under section 10 of the CGST Act, 2017. Hence it is not a composition scheme but is an optional scheme.

8.1 The conditions for the scheme are as under:

“1. Supplies are made by a registered person, -

- (i) whose aggregate turnover in the preceding financial year was fifty lakh rupees or below;
- (ii) who is not eligible to pay tax under sub-section (1) of section 10 of the said Act
- (iii) . . . . .
- (iv) . . . . .
- (v) . . . . .
- (vi) . . . . .”.

2. Where more than one registered person are having the same Permanent Account Number, issued under the Income Tax Act, 1961 (43 of 1961), central tax on supplies by all such registered persons is paid at the rate specified in column (2) under this notification.”

8.2 On perusal of the above conditions, an applicant shall be eligible to pay tax under the said notification, only if the applicant is not eligible to pay tax under section 10(1) of the CGST Act and the applicant does not satisfy the above condition as he is registered under Section 10 of CGST Act, 2017. Regarding the other condition, the applicant has admitted that his aggregate turnover is less than Rs.50 Lakhs and hence he satisfies this condition and other conditions are not applicable to him. Hence the applicant is not eligible to pay tax under the Notification on the entire aggregate turnover as long as he continues to be




registered as Composition Taxpayer. If the applicant opts out of the Composition levy and he obtains separate registrations for the two lines of business, as per second condition, he shall be liable to pay tax at 3% CGST and 3% SGST on the each of the turnovers of the registrations. The tax is on the entire aggregate turnover i.e all the "first supplies of goods or services or both upto an aggregate turnover of Rs.50 Lakhs". Hence the applicant is liable to pay tax under CGST Act at 3% and at 3% under KGST Act, if he opts to pay tax under the said Notification after opting out of Composition levy on the entire value of supplies made and he cannot apply different schemes for different types of transactions.

9. In view of the foregoing, we rule as follows

### **R U L I N G**

1. The applicant is eligible to be in the composition scheme under section 10 of the CGST Act, 2017 if the turnover of services of the applicant does not exceed ten per cent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.
2. The applicant is not eligible to opt to pay tax under the Notification No.2/2019- Central Tax (Rate) dated 07.03.2019 and under the Notification (02/2019) No. FD 48 CSL 2017 dated 07.03.2019 of the Government of Karnataka as the applicant is registered as a Composition Taxpayer.
3. The rate of tax applicable on the entire value is 3% CGST and 3% KGST and he cannot pay tax at 1% on supply of goods and 6% tax on the supply of services.

  
(Dr.M.P.Ravi Prasad)  
MEMBER  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009

  
(Mashhood Ur Rehman Farooqui)  
MEMBER  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009

Place : Bengaluru,  
Date 23-04-2020

To,  
The Applicant

Copy to :

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 South GST Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-110, Bengaluru.
5. Office Folder.

