

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI - 600 003.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Tmt. K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No.28/AAR/2022 DATED: 29.07.2022

GSTIN Number, if any / User id	33AABFT1477F1ZE
Legal Name of Applicant	TULASI TEXTILES
Trade Name of Applicant	TULASI TEXTILES
Registered Address/Address provided while obtaining user id	No. 5/13A, TULASI TEXTILES, Murugan Street, Solakattupalayam, Vagarayampalayam, Karumathampatti, Coimbatore-641659
Details of Application	GST ARA- 01 Application Sl.No.21/2022/ARA dated: 31.01.2022
Concerned Officer	Centre: Coimbatore Commissionerate State: Tiruppur Central-II Assessment Circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory/Manufacturing
B Description (in Brief)	The applicant is engaged in the business of manufacture and sale of Powerloom Gada cloth and cotton yarn.
Issue/s on which advance ruling required	Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both.

Question(s) on which advance ruling is required	<p>On dissolution of the firm the partner No.1 and partner No.2 are getting the following assets from the firm in lieu of their capital on the date of dissolution.</p> <ol style="list-style-type: none"> 1. Machinery and other fixed assets 2. Stock of raw materials, semi-finished goods and finished goods <p>Whether the above transaction amounts to supply under the GST Act and if so whether it is taxable supply or exempted supply under the GST Act</p>
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Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

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 the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

TULASI TEXTILES, No. 5/13A, TULASI TEXTILES, Murugan Street, Solakattupalayam, Vagarayampalayam, Karumathampatti, Coimbatore-641659. (hereinafter called the Applicant) are registered under GST with GSTIN33AABFT1477F1ZE. The applicant has sought Advance Ruling on the following question:

On dissolution of the firm the partner No.1 and partner No.2 are getting the following assets from the firm in lieu of their capital on the date of dissolution.

1. Machinery and other fixed assets
2. Stock of raw materials, semi-finished goods and finished goods

Whether the above transaction amounts to supply under the GST Act and if so whether it is taxable supply or exempted supply under the GST Act

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated they are engaged in business of manufacture and sale of Powerloom Gada cloth and cotton yarn for the past two decades. The partners of the firm have decided to dissolve the firm with effect from January 2022. After dissolution of the firm Partner No.1 along with his wife will continue his business in the name of M/s TULASI MILLS for which he has obtained GST Registration with GSTIN 33AARFT6750B1Z4 and the Partner No.2 along with his wife, as a partner will continue his business in the name of M/s TULASI TEXTILE for which he has obtained GST registration with GSTIN 33AASFT1153B1ZG. The applicant has stated that on dissolution of the firm the partner No.1 and Partner No.2 will get the following assets from the firm in lieu of their capital on date of dissolution.

i. Building

ii. Machinery and other assets

iii. Stock of raw materials, semi-finished goods and finished goods and for the balance in cash.

2.2 On interpretation of law, the applicant has made reference to clause 4c of Schedule II of the CGST Act and has stated that with the insertion of Section 7(1)(A) under the CSGT Act 2017, the items in Schedule II have become classification entries. They have stated that the Schedule II cannot determine the existence of a supply unless there is a supply in terms of Section 7(1). They have submitted that on dissolution there is no consideration flowing from the partners to the firm, thus there is no supply for consideration. They have also stated that if salary to a partner or share of profits received by a partner are not considered as supply then the assets received on dissolution by way of distribution will also not constitute a supply.

3.1 The applicant was addressed to seek their willingness to participate in the hearing in digital mode and the applicant consented. The hearing was held in digital mode on 25.02.2022. The Authorised Representative Shri R.Sivakumar, Chartered Accountant appeared for the hearing virtually and reiterated their submissions. He

was asked to furnish the following documents:

- i. Partnership deeds
- ii. Dissolution deeds
- iii. list of assets proposed to be transferred and the proposed modus of such transfer.

3.2 The applicant vide their letter dated 09.03.2022 submitted the following:

- M/s TULASI TEXTILES was established in the year 1992 with four partners namely Mr. S. S. Rangasamy (father), Smt. R. Tulasiammal (Mother), Mr. R. Gopalsamy (Son) and Mr. S. Shanmugasundaram (Son) all belonging to same family. Due to death of Mr. S.S.Rangasamy on 08.05.2021 the firm was reconstituted and a partnership deed (copy furnished) was executed on 23rd June 2021 amongst the other partners Smt. R. Tulasiammal, Mr. R. Gopalsamy and Mr. R. Shanmugasundaram. Now Smt.R.Tulasiammal has expressed her willingness to retire from the firm and the other two partners have proposed to dissolve the firm w.e.f 31.03.2022 and distribute the machineries between two new entities.
- They have furnished list of machineries available in the book of accounts as on 31.03.2021.

3.3 The applicant was asked to furnish the following documents vide letter dated 08.04.2022 and email dated 18.05.2022

- i. Partnership deed of new firms
- ii. Dissolution deed
- iii. proposed modus of transfer of assets.

4. The Central Jurisdictional Authority has submitted that there are no pending proceedings against the applicant and they have stated that in the applicant's case the transfer of business assets is a supply liable to taxability as it is covered under Schedule II Clause 4 of the CGST Act .

5. The State Jurisdictional Authority Tirupur Central II Assessment Circle, has stated that no proceedings are pending in the assessment circle in respect of the applicant.

6. The applicant did not furnish the details/documents required by this Authority and therefore another opportunity to be heard in digital platform on 20.07.2022 was extended, to have the clarity on the questions raised. However, the applicant sought adjournment for the hearing vide their email dated 20.07.2022. Further, Shri R. Gopalasamy, Managing Partner of the firm vide letter dated 20.07.2022 communicated to this Authority that they would like to withdraw the application seeking Advance Ruling and requested to permit the same.

7. We have examined the material on record. We find that when this Authority has sought details/documents to answer the question raised before us, the applicant has requested to permit withdrawal of their Advance Ruling Application vide the letter dated 20.07.2022. Considering the facts that without the details/documents called for by this Authority the question raised by the applicant cannot be answered and the issue cannot be decided based on the submissions of the applicant and also the fact that the applicant has requested to withdraw their Advance Ruling Application, the application is treated as withdrawn without going into the merits or detailed facts of the case.

RULING

The application filed by the applicant seeking Advance Ruling is disposed as withdrawn as per the request of the applicant.


K. LATHA
Member(SGST)


T.G. VENKATESH
Member (CGST)



To
TULASI TEXTILES,
No. 5/13A, TULASI TEXTILES,
Murugan Street, Solakattupalayam,
Vagarayampalayam,
Karumathampatti,
Coimbatore-641659 **// BY SPEED POST WITH ACK.DUE //**

Copy Submitted to:

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

Copy to:

3. The Principal Commissioner of GST & Central Excise,
Coimbatore Commissionerate, 6/7,A.T.D. Street, Race Course,
Coimbatore-641 018.
4. The Assistant Commissioner(ST),
Tiruppur Central-II Assessment Circle,
No.16, Emberar Building,
Indira Nagar, Avinashi Salai, Tiruppur- 641 003.
5. Master File/ Spare - 2.

