

2024 (85) G.S.T.L. 345 (App. A.A.R. - GST - T.N.)

BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING UNDER GST, TAMIL NADU

Shri Ashish Varma, Member (Central Tax) and Dr. D. Jagannathan, Member (State Tax)

IN RE : LIONS SEAT CUSHIONS PVT. LTD.

Order-in-Appeal No. AAAR/01/2024 (AR), dated 22-1-2024 in A.R. Appeal No. 05/2023/AAAR

Appeals to Appellate Authority - Advance Ruling - Condonation of delay - Appellant-assessee are manufacturers of seat covers for two wheeler, bikes and scooters - Being aggrieved by AAR decision appellant had filed instant appeal - Appellant has filed appeal beyond prescribed time limit of 30 days due to fact that managing director of company, who is a heart patient, was advised to be in rest for 3 weeks and therefore relevant documents could not be handed over to consultant on time - *HELD* : From documents furnished by assessee relating to medical condition of MD, it is seen that he was admitted to hospital, underwent CABG surgery and was under medication therefore - As per medical certificate, said MD was advised to take rest for three weeks as he had chest pain - In view of documents available on record and as per medical condition of MD appellant has presented sufficient cause that prevented them from filing appeal within normal period - Therefore, delay of 21 days beyond normal time limit in filing appeal is condonable as provided under proviso to Section 100(2) of CGST Act, 2017 and appeal will be taken for consideration on merits - Section 100 of Central Goods and Services Tax Act, 2017 - Section 100 of Tamil Nadu Goods and Services Tax Act, 2017. *[paras 6.5 to 7]*

Ruling in favour of assessee

CASE REVIEW

Lions Seat Cushions Pvt. Ltd. — Order No. 105/AAR/2023, dated 5-9-2023 by Authority for Advance Ruling, Tamil Nadu [Paras 2, 3.1, 3.3, 6.1, 6.2]

NOTIFICATION CITED

Notification No. 1/2017-C.T. (Rate), dated 28-6-2017..... [Paras 3.1, 3.2]

REPRESENTED BY : S/Shri M. Arumugam, Managing Director and K. Srirangaprasad, Chartered Accountant, for the Assessee.

[Order]. - At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *pari materia* and have the same provisions in like matter and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2. The subject appeal was filed under Section 100(1) of the Tamil Nadu Goods. & Services Tax Act, 2017/Central Goods & Services Tax Act, 2017 (hereinafter referred to 'the Act') by Lions Seat

Cushions Private Limited (hereinafter referred to as 'Appellant'). The Appellant was registered under the GST Act vide GSTIN 33AACCL1446J1ZP. The appeal was filed against the Order No. 105/AAR/2023, dated 5-9-2023 passed by the Tamil Nadu State Authority for Advance Ruling (hereinafter referred to AAR) on the Application for Advance Ruling filed by the Appellant.

3.1 The Appellant has stated that they are manufacturers of 'seat covers' for two wheelers, bikes and scooters and they had applied for Advance Ruling vide application ARA-01 No. 35/2022, dated 17-6-2022, with regard to classification and applicable rate of tax on the seat covers with the Authority for Advance Ruling vide their application dated 14-6-2022. The question raised in the application is as under :

"Whether the GST rate of 28% collected and paid for Bike and Scooter seat cover placing them under CTH 8708 99 00, is correct".

The Authority for Advance Ruling (AAR) vide Ruling No. 105/AAR/2023, dated 5-9-2023 ruled that Two wheeler seat covers are classifiable under CTH 8714 99 90 and it will attract GST @ 28% vide Entry No. 174 of Schedule IV of Notification No. 1/2017-C.T. (Rate), dated 28-6-2017.

3.2 Aggrieved, the Appellant had filed the present appeal. Under the grounds of appeal as submitted by the Appellant, they have argued that the seat cover is not an accessory to Two wheelers under HSN 8714 99 90, and that the seat cover is a part of the seat that merits classification under a specific Entry 9401 99 00, which attracts rate of tax at 18% only as per Entry No. 435A of Schedule III of Notification No. 1/2017-C.T. (Rate), dated 28-6-2017, as amended.

3.3 We observe that in this case, apart from the merits of the case, the appellant had also filed a petition for condonation of delay. Since the filing of appeal by the appellant in the instant case was beyond the prescribed time limit of 30 days from the passing of Order No. 105/AAR/2023, dated 5-9-2023, we are of the opinion that this aspect as to whether the delay in filing the appeal could be condoned or not, needs to be ascertained, before proceeding to discuss the merits of the case. Accordingly, an opportunity of personal hearing was accorded to the appellant for the limited purpose of condonation of delay.

Personal hearing :

5.1 Shri M. Arumugam, the Managing Director (MD) of M/s. Lions Seat Cushions Private Limited and Shri K. Srirangaprasad, Chartered Accountant, who is the Authorized Representative (AR) of the company, appeared for the virtual Hearing on 12-1-2024. The AR reiterated the submissions made by them in the petition for condonation of delay filed with the application.

5.2 The Members enquired as to whether they have produced any documentary evidences relating to the medical condition of the MD, at the relevant point of time. The AR replied that after filing the appeal, they have sent the relevant medical certificates through mail. The Members conveyed that they would look into the matter and consider the instant case for condonation of delay, accordingly.

Discussion and findings :

6.1 We have carefully considered all the material on record, the various submissions made by the Appellant and the applicable statutory provisions. The Appellant is before us, seeking primarily to condone the delay in filing the appeal against the Order No. 105/AAR/2023, dated 5-9-2023 passed by AAR.

6.2 The Appellant has stated that they have received the Advance Ruling No. 105/ARA/2023, dated 5-9-2023 passed by the AAR on 18-9-2023, and to this effect, they have enclosed a copy of the postal cover. They have further stated that the appeal could not be filed in time and that the same was filed on 3-11-2023, after a delay of 21 days. As per Section 100(2) of the CGST Act, 2017, 30 days is the time limit for filing the appeal from the date of receipt of the order. Hence, in the present case, the appeal should have been filed on or before 17-10-2023 as the order was reportedly received by the Appellant on 18-9-2023. They have stated that the reason for delay is due to the fact that Sh. M. Arumugam, Managing Director of the company, who is a heart patient, was advised to be in rest for 3 weeks, and therefore, the relevant documents could not be handed over to the consultant on time. As a result, the Appellant could not file the appeal within the time limit prescribed. Accordingly, the Appellant has prayed that a liberal approach may kindly be taken in view of the facts and circumstances and consider the case for condonation of delay.

6.3 We observe that in the instant case; having received the advance ruling on 18-9-2023, the appellant ought to have filed the appeal before the Appellate Authority for Advance Ruling by 17-10-2023 under normal circumstances, as laid down under Section 100(2) of the CGST Act, 2017. However, the proviso to Section 100(2) of CGST Act, 2017, states as follows :-

*“Provided that the Appellate Authority may, if it is satisfied that the *appellant was prevented by a sufficient cause from presenting the appeal* within the said period of thirty days, allow it to be presented *within a further period not exceeding thirty days.*”*

6.4 The appellant claims that they have filed the appeal on 3-11-2023, whereas from the documents available on file, we notice that the appeal was actually received by this office on 6-11-2023. Thereby, we observe that the appeal has been filed by the appellant after a delay of 21 days, but in any case, we find that the appeal has been filed within the condonable time limit of 30 days, as specified in the proviso referred above.

6.5 The appellant claims that Sh. M. Arumugam, Managing Director of the company, who is a heart patient, was advised to be in rest for 3 weeks, and therefore, the relevant documents could not be handed over to the consultant on time. Now the aspect as to whether the appellant was prevented by a sufficient cause from presenting the appeal, is required to be determined. From the documents furnished by the appellant relating to the medical condition of Sh. M. Arumugam, MD, it is seen that he was admitted to Apollo Hospitals, Chennai, underwent a CABG surgery on 9-2-2023, and was under medication thereafter. Meanwhile, under a medical certificate dated 11-10-2023 issued by Dr. S. Palanivel Rajan, Salem, it is seen that Sh. M. Arumugam has been advised to take rest for three weeks, as he had chest pain.

6.6 Going by the documents available on record, we are convinced that Sh. M. Arumugam, MD, had a condition that required medical care. Specifically, we observe that during the period around 17-10-2023, which was the last date under normal circumstances for filing the appeal, he had experienced chest pain which necessitated complete rest for three weeks from 11-10-2023 onwards. This being the case, we feel that the appellant has presented sufficient cause that prevented them from filing the appeal within the normal period. Therefore, we are of the considered opinion that the delay of 21 days beyond the normal time limit in filing the appeal is condonable as provided under the proviso to Section 100(2) of CGST Act, 2017. We further find that this authority is empowered vide Section 101(1) of the CGST/TNGST Act, 2017 to pass such orders as deemed fit.

7. Accordingly, we pass the following order :

ORDER

8. The delay of 21 days in filing the appeal by the appellant beyond the normal time limit of 30 days is condoned in terms of proviso to Section 100(2) of CGST Act, 2017, and the appeal will be taken up for consideration on merits.