

	<b>KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM</b>	
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**BEFORE THE AUTHORITY OF:** Shri. Sivaprasad.S, IRS &  
: Shri. Senil A.K. Rajan.

Legal Name of the applicant	M/s. The Travancore Mats & Matting Co.
GSTIN	32AABFT8331N1Z0
Address	218/1, 1, Saktheeswaram Junction, Velorvattom,
Advance Ruling sought for	Alappuzha - 688524.
	<p>i) Whether a Debit Note can be raised by a taxable person under Sec.34(3) of the CGST Act, 2017, for difference in rate of tax charged on tax invoice arising on account of objections raised by the proper officer that the rate of tax charged on tax invoice is lower than the applicable rate though not accepted by the taxable person, for the purpose of avoiding litigation and for buying peace, “as falling within the meaning of tax charged on tax invoice found to be less than the tax payable” and declare the details of such Debit Note in the return for the month during which such debit note is issued as provided in Sec.34(4) of the CGST Act, 2017 and pay / discharge the tax liability in such manner as may be prescribed?</p> <p>ii) Whether the Travancore Mats and Matting Co. (Bhavani Branch, GSTN 33AABFT8331N1ZY) can raise Debit Note, declare the details of the Debit Note in the return for the month during which such Debit Note is issued and pay / discharge tax liability in such manner as may be prescribed in the financial year 2020-21 u/s.34(3) &amp; 34(4) of the CGST Act, 2017, on account of the objections raised by the proper officer that the rate of tax charged on tax invoice for branch transfer / supply to other customers of latex tufted floor coverings being coir mats and matting is lower than the applicable rate though not accepted to avoid litigation and buy peace, on the Travancore</p>

	<p>Mats &amp; Matting Co. (Head office GSTN 32AABFT8331N1Z0) and other customers @ 7% IGST on branch transfer to Head Office / supply to other customers against invoices raised during the period 01-11-2017 to 30-04-2019 (separately for financial year 2017-18, 2018-19 &amp; 2019-20) and during which period Bhavani Branch was charging only 5% IGST on branch transfer to Head Office, Cherthala / supply to other persons as “tax charged in the tax invoice found to be less than the tax payable”?</p> <p>iii) Whether The Travancore Mats and Matting Co. (Head Office GSTN 32AABFT8331N1Z0) is entitled to take input tax credit in respect of Debit Note raised, declared in the tax return, tax liability paid / discharged in the manner prescribed by Bhavani Branch (GSTN 32AABFT8331N1ZY) on account of objections raised by the proper officer that the rate of tax charged on tax invoice is lower than the applicable rate though not accepted, for the purpose of avoiding litigation and for buying peace in the financial year 2020-21 against the invoices for branch transfer of latex tufted coir floor coverings being coir mats and matting raised by Bhavani Branch on Head Office during 2017-18, 2018-19 and 2019-20 u/s.16(4) of CGST Act, 2017 in view of the amendment made in the Finance Act, 2020 (12 of 2020) dtd.27-03-2020 to give effect to clause 118 of the Finance Bill, 2020 seeking to delink the date of issuance of Debit Note from the date of issuance of the underlying invoice for the purpose of availing input tax credit u/s.16(4) of the CGST Act, 2017?</p>
Date of Personal Hearing	06-01-2021
Authorized Representative	Shri. Sethumadhavan Damodara Kurup

**ADVANCE RULING No. KER/124/2021 Dated 31.05.2021**

The Travancore Mats and Matting Co. (**hereinafter referred to as the applicant**) is mainly engaged in the manufacture of latex tufted coir floor

coverings [HSN 5703], jute basket [HSN 6305] and latex backed coir mats [HSN 5702].

2. At the outset, the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued there under.

3. The applicant has sought for advance ruling on the following;

- i) Whether a Debit Note can be raised by a taxable person under Sec.34(3) of the CGST Act, 2017, for difference in rate of tax charged on tax invoice arising on account of objections raised by the proper officer that the rate of tax charged on tax invoice is lower than the applicable rate though not accepted by the taxable person, for the purpose of avoiding litigation and for buying peace, "as falling within the meaning of tax charged on tax invoice found to be less than the tax payable" and declare the details of such Debit Note in the return for the month during which such debit note is issued as provided in Sec.34(4) of the CGST Act, 2017 and pay / discharge the tax liability in such manner as may be prescribed?
- ii) Whether the Travancore Mats and Matting Co. (Bhavani Branch, GSTN 33AABFT8331N1ZY) can raise Debit Note, declare the details of the Debit Note in the return for the month during which such Debit Note is issued and pay / discharge tax liability in such manner as may be prescribed in the financial year 2020-21 u/s.34(3) & 34(4) of the CGST Act, 2017, on account of the objections raised by the proper officer that the rate of tax charged on tax invoice for branch transfer / supply to other customers of latex tufted floor coverings being coir mats and matting is lower than the applicable rate though not accepted to avoid litigation and buy peace, on the Travancore Mats & Matting Co. (Head office GSTN 32AABFT8331N1Z0) and other customers @ 7% IGST on branch transfer to Head Office / supply to other customers against invoices raised during the period 01-11-2017 to 30-04-2019 (separately for financial year 2017-18, 2018-19 & 2019-20) and during which period Bhavani Branch was charging only 5% IGST on branch transfer to Head Office, Cherthala / supply to other persons as "tax charged in the tax invoice found to be less than the tax payable"?
- iii) Whether The Travancore Mats and Matting Co. (Head Office GSTN 32AABFT8331N1Z0) is entitled to take input tax credit in respect of Debit

Note raised, declared in the tax return, tax liability paid / discharged in the manner prescribed by Bhavani Branch (GSTN 32AABFT8331N1ZY) on account of objections raised by the proper officer that the rate of tax charged on tax invoice is lower than the applicable rate though not accepted, for the purpose of avoiding litigation and for buying peace in the financial year 2020-21 against the invoices for branch transfer of latex tufted coir floor coverings being coir mats and matting raised by Bhavani Branch on Head Office during 2017-18, 2018-19 and 2019-20 u/s.16(4) of CGST Act, 2017 in view of the amendment made in the Finance Act, 2020 (12 of 2020) dtd.27-03-2020 to give effect to clause 118 of the Finance Bill, 2020 seeking to delink the date of issuance of Debit Note from the date of issuance of the underlying invoice for the purpose of availing input tax credit u/s.16(4) of the CGST Act, 2017?

#### **4. Contentions of the Applicant:**

4.1. The applicant submits that they are having a branch at Bhavani, Erode, Tamil Nadu 638301 with a separate GST registration bearing GSTIN 33AABFT8331N1Y. The branch at Bhavani is a distinct person as per provisions of Section 25(4) of the CGST Act. The goods manufactured at Bhavani branch are mostly / mainly transferred to head office for further processing and supply from head office, Cherthala which is mainly for export. Since Bhavani branch is a distinct entity under GST, invoices are raised by Bhavani branch on the transfer to head office and applicable rate of IGST is charged on the invoice raised by Bhavani branch.

4.2. Section 9 of The CGST Act and the respective SGST Act and Section 5 of the IGST Act inter alia provide for levy of tax at such rate as may be notified by the Government. The charging sections under the CGST Act 2017 or IGST Act 2017 do not refer to HSN code in any manner. Thus, notifications specifying the rate of tax are issued under section 9(1) of the CGST Act 2017 /corresponding SGST Acts and u/s 5(1) of the IGST Act 2017.

4.3. The basic Notification No. 1/2017-Central Tax (Rate) dated 28/06/2017, corresponding notification under State Acts and Notification No. 1/2017-Integrated Tax (Rate) were issued notifying the rate of tax on supply of goods. A perusal of the said notification makes it amply clear that the notification issued under the charging sections 9(1) of the CGST Act 2017 and under Section 5(1) of The IGST Act 2017, specify the rate with reference to/at, four-digit level of the First Schedule to The Customs Tariff Act 1975.

4.4. The First Schedule to The Customs Tariff Act has eight digits. The Customs Tariff Act is based on the harmonized commodity description and coding system and generally referred to as harmonized system or simply HS

developed by the World Customs Organization. India is a party to the International Convention on the harmonized commodity description (HS Convention). As a contracting party to the HS Convention, India is obliged to ensure that its Customs Tariffs and statistical nomenclature for both imports and exports are in conformity with the harmonized system. Thus, it can be seen that the six digits HS nomenclature or HSN is only for the purpose of imports and exports tariffs as per HS Convention and not for the purpose of GST.

4.5. As per Notification No 1/2017-IGST (Rate) dated 28/06/2017, Bhavani Branch was charging IGST on latex tufted coir floor coverings being coir mats and matting at 12% on invoices from 1<sup>st</sup> July 2017 for branch transfer to Head Office, Cherthala. After the issue of the Notification No 34/2017-Central Tax (Rate) dated 13<sup>th</sup> October 2017 (Corresponding IGST Notification No: 35/2017-Integrated Tax (Rate) dated 13<sup>th</sup> October 2017), dealing with amendment of SI No. 219 of Schedule 1 Bhavani Branch started charging IGST on latex tufted coir floor coverings being coir mats and matting at 5% on invoices from 1<sup>st</sup> November 2017 for branch transfer to Head Office, Cherthala, and supply to other customers.

4.6. In the month of March 2019, one of the manufacturers of PVC tufted coir mats and matting approached the Advance Ruling Authority of Kerala and sought a clarification regarding the rate of tax applicable to PVC tufted coir mats and matting. The Advance Ruling Authority gave a clarification that the rate applicable to PVC tufted coir mats and matting is 12% and falls under SI No. 144 of Schedule II of Notification No 1/2017 Central Tax (Rate) vide Advance Ruling No. KER/31/2019 dated 01/03/2019. Post the above referred advance ruling, they were advised by the consultants/experts that it is legally and financially prudent to pay higher rate of 12% IGST voluntarily on branch transfer from Bhavani to Cherthala and supply to other customers until a clarification from the Government/GST Council/ Appropriate Authority under the provisions of the Act by taking up the matter through Trade Associations and the Government of Kerala, is obtained and the said process is underway. Accordingly, Bhavani Branch started charging 12% IGST on latex tufted coir floor coverings being coir mats and matting on invoices from 1<sup>st</sup> day of May 2019 for branch transfer to Head Office, Cherthala and supply to other customers.

4.7. Thus for the period 1<sup>st</sup> November 2017 to 30<sup>th</sup> April 2019, Bhavani Branch was charging 5% IGST on invoices of latex tufted coir floor coverings being coir mats & mattings for branch transfer to Head Office, Cherthala and supply to other customers. Just because they were paying taxes from 1<sup>st</sup> May 2019 at 12% on a voluntary basis, the benefit of Notification No. 34/2017 cannot be denied for the period 1<sup>st</sup> November 2017 to 30<sup>th</sup> April 2019.

4.8. However, the Senior Intelligence Officer, Directorate General of GST Intelligence, Coimbatore Zonal Unit objected to the levy of 5% IGST on transfer of Latex Tufted Coir Floor Coverings being coir mats and mattings and supply to other customers.

4.9. In the process of manufacture of Latex Tufted Coir Floor Coverings, coir yarn is tufted into the latex compound which is the base. Here the predominant raw material used for this product is coir yarn and the latex compound is only a base for tufting the coir yarn into the base. The charging sections under the CGST Act 2017 or IGST Act 2017 do not refer to HSN code in any manner. The notifications issued under the charging section 9(1) of the CGST Act 2017 and under section 5(1) of the IGST Act 2017, specify the rate with reference to/at, four-digit level of the First Schedule to The Customs Tariff Act 1975. Latex Tufted Coir Floor Coverings falls under Chapter Head 5703 since the exposed surface of the article when in use is coir and the manufacturing operations is tufting into the latex base and for the purpose of four digit classification under Chapter Head it is to be rightly treated as Coir Mats and Matting for determining the rates under relevant GST notifications issued u/s 9(1) of the CGST Act and section 5(1) of the IGST Act (Reference-Note 1 to Chapter 57 of The Customs Tariff Act 1975). The Pre GST-incidence of tax based on which band of tax rates are fixed, which was less than 9% in the case of latex tufted coir floor coverings due to exemption from Central Excise Act/ various VAT Act of manufacturing states under various exemption notifications thus justifying the rate of 5%. The reference from the Honourable Finance Minister, Kerala recorded in the 22nd GST Council Meeting and a plain reading of Notification No 34/2017 of the Central Tax (Rate) [35/2017 IGST (Rate)] it can be seen that Latex Tufted Coir Floor Coverings come within the meaning of Coir Mats and Matting and are therefore entitled to the benefit of low band tax rate of 5% applicable to all coir mats and matting. The language of notification 34/2017 suggests coir industry based/sector-based rate of 5% GST for all coir mats and matting of coir industry by referring to various heads of chapter 57 and not restricting to any particular item of coir mats and matting falling under 6 digits/8-digit HSN of the Customs Tariff Act 1975 under Chapter 57.

4.10. They are of the strong opinion and belief that the Latex Tufted Coir Floor Coverings manufactured at Bhavani Unit falls under the classification of coir mats, matting and floor coverings falling under HSN 5703, Entry No 219/Schedule I attracting 5% GST. Now Bhavani Branch proposes to raise a Debit Note at the rate of 7% IGST for branch transfer to Head Office and supply to other customers against invoices for supply of latex tufted coir floor coverings being coir mats and matting raised during the period 01/11/2017 to 30/04/2019 during which period Bhavani Branch was charging only 5% IGST on branch transfer to Head Office, Cherthala and supply to other customers to

avoid litigation and buy peace provided HO can/is entitled to take credit for Debit note so raised by Bhavani Branch.

#### **5. Contentions of the Jurisdictional Officer:**

The jurisdictional officer submitted that the applicant is engaged in the manufacture and export of latex tufted coir mats and latex backed coir mats. The applicant has also a branch in Tamilnadu with separate registration. The returns filed by the applicant for the year 2017-18 has been scrutinised and found some difference in turnover reported in GSTR 3B and GSTR 9 and ASMT 10 notice has been issued accordingly. The applicant had remitted Rs.8,78,617/- through DRC 03 and filed a reply and the case is now pending for finalisation. The jurisdictional office has not issued any notice regarding the difference in tax rate by which the application for advance ruling is filed. Therefore, they are not in a position to offer any remarks in the case as the office has not initiated any proceedings against the applicant regarding the difference of tax rate as stated in the application for advance ruling.

#### **6. Personal Hearing:**

The applicant was granted opportunity for personal hearing on 06.01.2021. The authorised representative represented the applicant. He reiterated the contentions made in the application and requested to issue the ruling on the basis of the submissions made in the application.

#### **7. Discussion and Conclusion:**

7.1. The matter was examined in detail. Section 95(a) of the CGST Act defines the term "advance ruling". As per Section 95(a) of the CGST Act "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. As per Section 95 (c) of the CGST Act; "applicant" means any person registered or desirous of obtaining registration under the Act.

7.2. Section 97 of the CGST Act that pertains to application for Advance ruling reads as follows;

(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought under this Act, shall be in respect of—

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) 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, within the meaning of that term.

7.3 Section 103 of the CGST Act that pertains to the applicability of advance ruling reads as follows;

“103. Applicability of advance ruling— (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—

- (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
- (b) on the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.”

7.4. On a combined reading of the definition of the terms, advance ruling, applicant and the above provisions governing advance ruling under the CGST Act it is evident that an applicant can make an application for advance ruling if the following conditions are satisfied;

- (1) the applicant is either registered under GST law or is desirous of obtaining registration;
- (2) the matter or question pertains to any issue specified in Section 97 (2);
- (3) such a transaction is being undertaken or proposed to be undertaken by the applicant and the advance ruling is binding only on the applicant and the jurisdictional officer of the applicant.



As the advance ruling is applicable only to the applicant and the jurisdictional officer of the applicant, the ruling is GSTIN specific and hence not applicable to distinct persons as specified in sub-section (4) of Section 25 of the CGST Act.

7.5. In the instant case the applicant has sought ruling regarding the circumstances or situations under which a debit note can be raised, the time limit within which the debit note is to be raised and the manner of reporting of such debit note in the monthly returns. The provisions governing the issue of credit notes and debit notes and the manner of reporting them in the returns is contained in Section 34 of the CGST Act which is reproduced below;

**“34. Credit and debit notes.** – (1) Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(3) Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing such particulars as may be prescribed.

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation: —For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.”

7.6. The first question raised by the applicant is whether a debit note can be issued by the applicant for the difference of the rate of tax charged in the tax invoice as specified under section 34(3) of the CGST Act. The second question raised is whether the Bhavani branch of the applicant having GSTIN 33AABFT8331N1Y in Tamilnadu can raise debit note for the difference of the rate of tax charged in the tax invoice issued to the applicant on the branch transfer and on supplies made by them to other customers. The Bhavani branch being a distinct person as per provisions of Section 25 (4) of the CGST Act is outside the jurisdiction of this authority and therefore the question raised pertains to an activity / transaction proposed to be performed by a registered person who is not within the jurisdiction of this authority. The third question is whether the applicant can avail input tax credit on such debit note raised by the Bhavani branch of the applicant which is dependent on the answer to the second question.

7.7. Thus, the questions raised by the applicant are not in respect of any matter specified in sub-section (2) of Section 97 of the CGST Act and also in respect of activity / transaction proposed to be performed by a registered person who is not within the jurisdiction of this authority.

7.8. Further it is stated by the applicant that they have sought this advance ruling as the Senior Intelligence Officer, Directorate General of GST Intelligence, Coimbatore has raised objections regarding the payment of GST by the applicant and though the applicant does not accept the objection raised by the officer, prefers to settle the issue by payment of the differential tax. Therefore, it is evident that the questions raised by the applicant regarding the issue of debit note for the difference in rate of tax charged on the tax invoice has arisen on account of objection raised by the departmental officer. The first proviso to Section 98 (2) of the CGST Act stipulates that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.

7.9. This authority is a creature of statute and has to function within the limits of the jurisdiction granted to it. We have already concluded above that the questions raised by the applicant are not in respect of any matter that is specified in Section 97 (2) of the CGST Act and also in respect of activity / transaction proposed to be performed by a registered person who is not within the jurisdiction of this authority. Therefore, this authority is not having jurisdiction to issue rulings on the questions raised by the applicant.

In view of the observations stated above, the following rulings are issued:

**RULING**

The questions raised by the applicant being not in respect of any matter specified under Section 97 (2) of the CGST Act, this authority has no jurisdiction to issue ruling on the same for the reasons as stated above.



Sivaprasad.S

Joint Commissioner of Central Tax  
Member



Senil A. Rajan

Additional Commissioner of State Tax  
Member

To,

M/s. The Travancore Mats & Matting Co.  
218/1, 1, Saktheeswaram Junction,  
Velorvattom,  
Alappuzha - 688524.

**Copy to:**

- 1) The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin-682018. [E-mail ID: cccochin@nic.in]
- 2) The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
- 3) The Deputy Commissioner, State Goods and Services Tax Department, Alappuzha. [E-mail ID: alpiac.ctd@kerala.gov.in]