

No GST payable on washed/rejected coal from washery on which Compensation Cess is paid and ITC is not availed

The AAR, Chhattisgarh in the matter of *M/s Parsakente Collieries Limited [Advance Ruling No. STC/AAR/08/2021 dated December 17, 2021]* has ruled that nil rate of Compensation Cess is applicable on supply of coal rejects by the coal washery, as long as it arise from the raw coal on which appropriate Compensation Cess has been paid during the supply and where no Input Tax Credit (“ITC”) of the Compensation Cess so paid is availed, in terms of Sl. 41A of *Notification No. 1/2017- Compensation Cess dated June 28, 2017* (“the Compensation Cess Rate Notification”)

Facts:

M/s Parsakente Collieries Limited (“the Applicant”) is a Mine Development Operator engaged in rendering mining services entered into a Coal Mining and Development Agreement (“CMDA”) with Rajasthan Rajya Vidyut Utpadan Nigam Limited (“RVUNL”) which has been allotted a coal block by the Central Government. The Applicant also operates a Coal washery, for washing the raw coal as extracted from the mine and the coal rejects after washing the coal is the property of the Applicant.

Further, the Applicant as per its contractual obligations under CMDA, deposits the Compensation Cess attributable to the entire quantity of raw coal in the electronic cash ledger of RVUNL. Then, RVUNL debits the applicable Compensation Cess in its electronic cash ledger at the time of supply of washed coal from RVUNL Chhattisgarh to RVUNL Rajasthan and also at the time of supply of coal rejects to the Applicant. The sum total of the Compensation Cess paid by RVUNL on the quantity of washed coal and the quantity of coal rejects is equal to the Compensation Cess payable on the entire quantity of raw coal.

The Applicant contended that vide Final order dated May 25, 2021 in Application No. STC/AAR/04/2021 (“**the Impugned Order**”), it was held that since the Applicant is a coal washery, the coal rejects supplied by it will attract Nil rate of Compensation Cess when due Compensation Cess on the total quantity of the raw coal stands discharged and also when no ITC has been availed. The Applicant submitted that this application has been filed as the Impugned Order did not explicitly states that the stipulation in entry at Sl. No. 41A of the Compensation Cess Rate Notification would stand satisfied as long as compensation Cess on the entire quantity of raw coal was discharged though such an interpretation is evident from a holistic reading of the Impugned Order.

Issue:

Whether the Applicant, being a coal washery is entitled to the benefit of Nil rate of Compensation Cess in terms of Entry 41A of the Compensation Cess Rate Notification on coal rejects supplied by it, if such coal rejects arise from the raw coal on which applicable Compensation Cess has been paid by the RVUNL and no ITC has been availed on it?

Held:

The AAR, Chhattisgarh in the matter of **Advance Ruling No. STC/AAR/08/2021** held as under:

- Observed that, for the Applicant to be eligible to discharge Nil Compensation Cess on the supply of reject coal as per Sl. No. 41A of the Compensation Cess Rate Notification, the coal reject should have arisen for coal on which Compensation Cess had been discharged.
- Noted that, the coal reject has arisen out of the raw coal, on the entire quantity of which the Compensation Cess had been discharged by RVUNL, albeit of the supply of coal washed and coal rejects, the sum total of which is equal to the quantity of raw coal mined.

- Stated that, Nil rate of Compensation Cess under Sl. No. 41A of the Compensation Cess Rate Notification is applicable to the Applicant on coal rejects arising out of the raw coal mined on being subjected to the process of washing in the coal washery of Applicant.
- Held that, the Applicant would be entitled to Nil rate of Compensation Cess in terms of Sl. No. 41A of the Compensation Cess Rate Notification, on coal rejects supplied by it as long as the same arise from raw coal on which appropriate Compensation Cess has been paid by RVUNL at the stage of supply of washed coal and coal rejects respectively supplied by their coal washery and also when no ITC of the Compensation Cess is availed by any person.

Relevant Provisions:

Sl. 41A of the Compensation Cess Rate Notification:

<i>"S. No.</i>	<i>Chapter / Heading / Sub-heading / Tariff item</i>	<i>Description of Goods</i>	<i>Rate of goods and services tax compensation cess</i>
41A	27	<i>Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person.</i>	<i>Nil"</i>

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