
 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR - 302005 (RAJASTHAN)	1  राजस्थान कर बाजार
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ADVANCE RULING NO. RAJ/AAR/2018-19/06

Present:-



Nitin Wapa, Joint Commissioner	:	Member(Central Tax)
Sudhir Sharma, Joint Commissioner	:	Member(State Tax)
Name and address of the applicant	:	M/S RARA UDHYOG E-144, RIICO INDUSTRIAL AREA BAGRU PHASE-2, BAGRU EXTENTION, JAIPUR (RAJASTHAN) - 303007
GSTIN of the applicant	:	08AABFR1471M1Z0
Clause(s) of Section 97(2) of CGST / SGST Act, 2017, under which the question(s) raised	:	(b) applicability of a notification issued under the provisions of this Act; (c) determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing	:	11/05/2018
Present for the applicant	:	Shri Alok Kumar Kothari, Advocate.
Date of Ruling	:	23.06.2018

(A) SUBMISSION OF APPLICANT

1. That the applicant is engaged into the activities of cleaning of the various Agriculture produce like Saunf (Fennel), Dhaniya (Coriander), Jeera (Cumin seeds), etc. or the like goods which are brought to them by the farmers or by the traders. That the agriculture produce contains dust particles, certain small pieces of stones, dust, mud and other impurities etc. The applicant is having cleaning plant and they remove the various impurities but do not change the essential character of the agriculture produce but make the product marketable for primary market.





2. The relevant headings and definition re- reproduce below:

(i) Entry S. No. 24 (i)(i)(c) of Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 attracting NIL rate of tax:

"processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, - sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market"

(ii) S. No. 24(i)(iii) of Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 attracting NIL rate of tax:

"Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce"

(iii) Entry S. No. 54(c) of Notification No 12/2017 -Central Tax (Rate) dated 28/6/17:

"processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market".

(iv) Entry No. 55 of Notification No 12/2017 -Central Tax (Rate) dated 28/6/17:

"Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce".

(v) The explanation provided at pt. 4 (vii) of the notification 11/2017 Central tax (Rate) dated 28/06/2017 or definition (d) at point 2 of the Notification No 12/2017 -Central Tax (Rate) dated 28/6/17 defines agriculture produce as:

"agricultural produce" means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market."

3. That the agriculture produces like Saunf (Fennel), Dhaniya (Coriander), Jeera (Cumin seeds), etc. are simply cleaned by the applicant at their cleaning plant. Such cleaning is necessary for making the product marketable for primary market and cleaning is a process which comes under the category of a process usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. Thus, the process of cleaning at the end of the applicant firm does not alter the essential character. Hence the uncleaned agriculture produce remains the agriculture



produce even after cleaning activity attracting NIL rate of tax under both the notifications discussed above.

4. The contentions of the applicants also get support from the Education guide of Service Tax where under Section 66D of the Finance Act 1994 the various processes including cleaning on agriculture produce were covered under the negative list. Hence, no Service Tax was levied on the applicant firm on the cleaning activity under the erstwhile Finance Act 1994. Reference is made to the point 4.4.6 of the Education guide (as reproduced at below paragraphs at pt. 6).

Therefore, alternatively activity of cleaning may also be covered by Entry S. No. 24 (i)(c) of Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and Entry No. 54(c) of Notification No 12/2017 –Central Tax (Rate) dated 28/6/17 attracting NIL rate of duty.

5. Further the point 4.4.6 alternatively also clarifies "Shelling of paddy would not be covered in the negative list entry relating to agriculture as this process is not done on a farm but in a rice shelling unit normally located away from the farm.

However, if shelling is done by way of a service i.e. on job work then the same would be covered under the exemption relating to 'carrying out of intermediate production process as job work in relation to agriculture'."

Applying the ratio "cleaning activity" done by the applicant firm may be treated as intermediate production process as job work in relation to agriculture produce.

Therefore, alternatively activity of cleaning may also be covered by Entry No. S. No. 24(i)(iii) of Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and Entry No. 55 of Notification No 12/2017 –Central Tax (Rate) dated 28/6/17 attracting NIL rate of duty.

6. That Section 66(D), 65(B) of the Finance Act 1994 and the relevant extracts from the Education guide on the Service Tax is reproduce below clarifying the aspect.

SECTION 66D. Negative list of services. —The negative list shall comprise of the following services, namely :—

- (a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—

(i) * * * * *

- (ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;



- (iii) Transport of goods or passengers; or
- (iv) [Any service], other than services covered under clauses (i) to (iii) above, provided to business entities;
- (b) Services by the Reserve Bank of India;
- (c) Services by a foreign diplomatic mission located in India;
- (d) **Services relating to agriculture or agricultural produce by way of—**
 - (i) Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or [* *] testing;
 - (ii) Supply of farm labour;
 - (iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
 - (iv) Renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
 - (v) Loading, unloading, packing, storage or warehousing of agricultural produce;
 - (vi) Agricultural extension services;
 - (vii) Services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;



SECTION [65B. Interpretations. — In this Chapter, unless the context otherwise requires,—

- (1) "actionable claim" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882 (4 of 1882);
- (2) "advertisement" means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or



actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person;

(3) "agriculture" means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;

(4) "agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training;

(5) "agricultural produce" means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

[Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017]



Rate of GST on intra-State supply of specific services with Service Code Tariff (SAC)

In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table :-

TABLE

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1.	Chapter 99	All Services		
24	Heading 9986	(i) Support services to agriculture, forestry, fishing, animal husbandry. <i>Explanation.</i> - "Support services to agriculture, forestry, fishing, animal husbandry" mean - (i) Services relating to	Nil	-



		<p>cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—</p> <p>(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(b) supply of farm labour;</p> <p>(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, - sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(f) agricultural extension services;</p> <p>(g) services by any</p>	
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		<p>Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p> <p>(ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.</p> <p>(iii) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.</p>		
		(ii) Support services to mining, electricity, gas and water distribution.	9	

4. *Explanation.*- For the purposes of this notification, -

(i) Goods includes capital goods,

(ii) Reference to "Chapter", "Section" or "Heading", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter", "Section" and "Heading" in the annexed scheme of classification of services (Annexure).

(iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988.



(iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-

(a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and

(b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.

(v) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment.

(vi) "agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training.

(vii) "agricultural produce" means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.

(viii) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce.

[Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017]



Exemption from CGST on specified intra-State services

In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

TABLE



(1)	(2)	(3)	(4)	(5)
Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Service	Rate (per cent.)	Condition
54	Heading 9986	<p>Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of –</p> <p>(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(b) supply of farm labour;</p> <p>(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the</p>	Nil	Nil





		primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services;		
55.	Heading 9986	Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.	Nil	Nil

2. **Definitions.** - For the purposes of this notification, unless the context otherwise requires, -

(a) "advertisement" means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person;

(b) "Advocate" has the same meaning as assigned to it in clause (a) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961);

(c) "Agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training;

(d) "Agricultural produce" means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

(e) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;



(B) ISSUE FOR DETERMINATION

The question/ issue before the authority of advance Ruling (AAR) for determination are:

1. Whether the activity of the applicant (as discussed at pt. 15 below) covered by Entry S. No. 24 (i)(i)(c) or S. No. 24(i)(iii) of Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 attracting NIL rate of tax.
2. Whether the activity of the applicant (as discussed at pt. 15 below) covered by Entry S. No. 54(c) or Entry No. 55 of Notification No 12/2017 –Central Tax (Rate) dated 28/6/17 attracting NIL rate of tax.

Personal Hearing (PH)

In the matter personal hearing was given to the applicant and accordingly Shri Alok Kumar Kothari ,Advocate, appeared as representative of applicant for personal hearing on 11.05.2018. During the PH he reiterated the submissions already made in the application for Advance Ruling submitted on 27.03.2018.. He requested that the case may be decided as per the above submission made earlier.

FINDINGS :

1. The Jurisdictional Officer in his/her comments has stated that the activity of cleaning is not being carried out at agriculture farm but at special cleaning plant installed away from agricultural farm .Further it is stated that cleaning activity cannot be defined as intermediate production process as job work in relation to cultivation of plants, hence are not covered under NIL rate of tax.
2. Applicant M/S Rara Udyog, Jaipur has a cleaning **plant** installed at E-144, RIICO Industrial Area Bagru , Jaipur and undertakes removing of various impurities from various products such as *saunf*(fennel), *dhaniya*(cumin), *jeera* etc. or like goods brought to them for cleaning process.

3. 'As per Entry no. 24(i)(i) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and the Entry No. 54(c) of the Notification No. 12/2017 Central tax (Rate) dated 28/06/2017 NIL rate of GST is provided on

*"processes carried out at an **agricultural farm** including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market."*

The above clearly states that exemption is available only on those processes which are carried at **Agriculture Farm** and which do not change the essential characteristics of the Agricultural Produce but only make it marketable for primary market i.e. first marketability.

4. It limits the processing only to that extent which makes it marketable for primary market. Hence all other processes which are done after acquiring the stage of first marketability fall outside the scope of above clause.
5. Secondly and most importantly processes undertaken on agricultural produce such as tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce, **should be carried out at Agricultural Farm** i.e. all given processes must necessarily be undertaken at Agriculture Farm only then it would attract NIL rate under GST.
6. Applicant M/S Rara Udyog, Jaipur has himself stated that it has a cleaning plant which clearly suggests that it undertakes specialized activity of cleaning using specific machines and equipments **which are installed at its premises and away from Agricultural farm.**
7. Thus As per Entry no. 24(i)(i) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and the Entry No. 54(c) of the Notification No. 12/2017 Central tax (Rate) dated 28/06/2017 NIL rate of GST is Applicable on given processes only if undertaken at an agriculture farm and not otherwise.
8. As per Entry no. 24(i)(iii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and the Entry No. 55 of the Notification No. 12/2017 Central tax (Rate) dated 28/06/2017 Nil Rate of GST is provided on
- "Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce."*
9. The activity of **mechanized cleaning** does not fall under intermediate production process as job work in relation to cultivation of plants. Intermediate production process as job work in relation to cultivation of plants usually relates to agricultural operations directly related to production of any agricultural produce such as cultivation, harvesting, threshing, plant protection, testing, and supply of farm labour etc., carried out at agricultural farm. Hence the activity of mechanized cleaning at an installed plant is not covered under the above clause too and does not attract NIL rate of Tax.



7. In view of the foregoing, we rule as under,

RULING

The activity of the applicant i.e. M/s Rara Udhog, Jaipur is not covered by Entry S. No. 24 (i)(i)(c) or S. No. 24(i)(iii) of Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 AND Entry S. No. 54(c) or Entry No. 55 of Notification No 12/2017 -Central Tax (Rate) dated 28/6/17 & will not attract NIL rate of tax.

 23/6/18
(NITIN WAPA)

Member
(Central Tax)



 23/6/18
(SUDHIR SHARMA)

Member
(State Tax)

To:

M/S RARA UDHOG, E-144,
RICO INDUSTRIAL AREA,
BAGRU PHASE-2, BAGRU EXTENTION,
JAIPUR (RAJASTHAN) - 303007.

F.No. IV(4)/AAR/RAJ/2018-19/27-3/

o/c
SG-ST

Date: /06/2018

9/7/2018

Copy to:-

1. The Chief Commissioner of CGST & Central Excise (Jaipur Zone) & Member, Appellate Authority for Advance Ruling.(NCR Building, Statue Circle, Jaipur 302005)
2. The Commissioner of SGST & Commercial Taxes Rajasthan & Member, Appellate Authority for Advance Ruling (Kar Bhawan, Near Ambedkar Circle, Jaipur 302005).
3. The Assistant/Deputy Commissioner of Central GST Divison-F, Range-XXVIII, CGST Jaipur Commissionerate, Jaipur.
4. The State Tax Officer, Ward-3, Circle-C, Jaipur Zone-III, Divisional Kar Bhawan, Jhalana Institutional Area, Jaipur.