



RAJASTHAN APPELLATE AUTHORITY FOR ADVANCE
RULING
GOODS AND SERVICES TAX
NCR BUILDING, STATUE CIRCLE, C-SCHEME
JAIPUR – 302005 (RAJASTHAN)



PROCEEDINGS UNDER SECTION 101 OF THE CENTRAL GST ACT, 2017 AND
RAJASTHAN GST ACT, 2017
BEFORE THE BENCH OF
1. MS. ARCHANA P. TIWARI, MEMBER
2. SH. ALOK GUPTA, MEMBER

ORDER NO.RAJ/AAAR/3/2018-19 DATED 31.10.2018

Name and address of the appellants	:	M/s Rara Udhyog, E-144, RIICO Industrial Area, Bagru Phase-2, Bagru Extension, Jaipur (Rajasthan) - 303007
GSTIN of the appellants	:	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; (e) determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing	:	09.10.2018
Present for the Appellant	:	Shri Alok Kumar Kothari, Advocate
Details of Appeal	:	Appeal No. RAJ/AAAR/APP/03/2018-19 against Advance Ruling No. RAJ/AAR/2018-19/06 Dt. 23.06.2018

Proceedings

(Under Section 101 of the Central GST Act, 2017 and Rajasthan GST Act, 2017)

1. At the outset we would like to make it clear that provisions of both the Central GST Act, 2017 and Rajasthan GST Act, 2017 are same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central GST Act would also mean a reference to the same provisions under Rajasthan GST Act.

2. The present appeal has been filed under Section 100 of the Central GST Act, 2017 (hereinafter also referred to as 'CGST Act') and Rajasthan GST Act, 2017 (hereinafter also referred to as 'RGST Act') by M/S RARA UDHYOG, Jaipur against the Advance Ruling No. RAJ/AAR/2018-19/06 dated 23.06.2018.



BRIEF FACTS OF THE CASE

3. That the Appellant 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.
4. That the agriculture produce contains dust particles, certain small pieces of stones, dust, mud and other impurities etc. The Appellant 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.
5. The Appellant had applied for Advance Ruling whether the activity of cleaning of the above produce is exempted under the Entry S. No. 24 (i)(i)(c) and 24(i)(iii) of Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and Entry S. No. 54(c) and 55 of Notification No 12/2017 –Central Tax (Rate) dated 28/6/17 .
6. The Appellant had also cited previous law i.e. Section 66D of the Finance Act, 1994 and Point No. 4.4.6 of the Educational guide of Service Tax in their favour .
7. Authority for Advance Ruling (AAR) , after perusing the records submitted by the department and Applicant (now 'Appellant' before this forum) and after hearing the Applicant ruled as under :-

"The activity of the Appellant i.e. M/s Rara Udhyog, 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."
8. Being aggrieved with the Ruling of the AAR, the Appellant has filed appeal before this forum.

CASE FOR THE PARTY

9. That the order had not taken into account the provision of Finance Act 1994 which were exempting the services discussed in the application for Advance Ruling during the regime of Service Tax.
10. The activities in question were duly exempted during the regime of Service Tax and similar entries are introduced in GST provision.

The detailed discussions were made in the application as to how the activities covered in the GST Act was identically covered in the Provisions of Finance Act 1994 and no service tax was levied since there is no change in the descriptions of the entries the taxability aspect cannot change. Thus the activities in question remain non-taxable from GST also.

11. That at para 1 of the finding of advance ruling there is an reference of comments of jurisdictional officers that copy of the comment were not provided to the applicant and



applicant were not given opportunity to discuss the finding of the comments of the jurisdictional officers.

12. That the Appellants 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.

13. 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.

14. The contentions of the appellants 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.

Therefore, alternatively activity of cleaning may also be covered by Entry S. No. 24 (i)(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.

15. 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 never done on a farm but in a rice sheller 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.



Personal Hearing (PH)

16. In the matter personal hearing was given to the Appellant and accordingly Shri Alok Kumar Kothari, Advocate, appeared as representative of Appellant for personal hearing on 09.10.2018. During the PH he reiterated the submissions already made in the Appeal memo.

DISCUSSION AND FINDINGS :

17. The question/ issue before this forum for determination is :

1. Whether the activity of the Appellant is 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 ; and/or
2. Whether the activity of the Appellant is 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.

18. For the sake of convenience , we are reproducing the relevant entries of the above said notifications :-

[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	<p>(i) Support services to agriculture, forestry, fishing, animal husbandry.</p> <p><i>Explanation.</i> - "Support services to agriculture, forestry, fishing, animal husbandry" mean -</p> <p>(i) 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 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 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</p>	Nil	-



		the said fruits or vegetables.		
		(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.		
		(ii) Support services to mining, electricity, gas and water distribution,	9	-

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

(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.

[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

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Service	Rate (per cent.)	Condition
1	2	3	4	5
54	Heading	Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw		



	9986	material or other similar products or agricultural produce by way of – (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (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; (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;	Nil	Nil
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, -

(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;

19. We find that Appellant 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. We find that as per Entry no. 24(i)(i)(c) 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."

20. The AAR on the basis of the above ruled 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. In other words, as per the AAR, all given processes must necessarily be undertaken at Agriculture Farm only then it would attract NIL rate under GST. Since the impugned process (cleaning process) is not being undertaken at Farm, benefit of the above notifications is not available to the Applicant, ruled AAR.

21. We find that there are three ingredients of the Entry No. 24(i)(i)(c) and 54(c) ibid.

- (i) Stated processes should be carried out on an agricultural farm;
- (ii) Stated processes should be of such nature which does not alter the essential characteristics of the agricultural produce;
- (iii) Stated processes should be of such nature which make the produce marketable for the primary market.



22. A process must satisfy all the three conditions before being declared as the process exempted from GST vide the above said entries Nos. 24(i)(i)(c) and 54(c) ibid under the above notifications Nos. 11/2017-Central Tax (Rate) and 12/2017-Central Tax (Rate).

23. Coming to the first condition, we find that the impugned process is not being carried out at an Agricultural Farm. It is being carried out mechanically in the Factory away from the Agricultural Farm. Coming to the second condition, we find that the process of cleaning does not alter the essential characteristics of the agricultural produce. Coming to the third condition, we find that the process of cleaning undertaken at the end of the appellant makes the produce like Saunf (Fennel), Dhaniya (Coriander), Jeera (Cumin seeds) marketable for the secondary market. After this cleaning, these produce come to the stage where these can be directly consumed by the general public. While Saunf (Fennel), Dhaniya (Coriander), Jeera (Cumin seeds) which farmer brings into the primary market is not suitable for direct consumption by the general public. There is a vast difference between the type of cleaning undertaken at the farm level by the farmer and that undertaken at the factory by specialized machines. In nutshell, the impugned process when undertaken at the factory level upgrades the marketability of the produce to the level of the secondary market. The exemption notifications do not envisage such a refinement on the produce. Thus we find that the impugned process succeeds only on one count while it failed miserably on other two counts.

24. Now we pay our attention to the 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 vide which 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."

25. We find that by no stretch of imagination activity of mechanized cleaning falls 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 are operations like harvesting, threshing, plant protection, testing, and supply of farm labour etc., carried out at agricultural farm.

26. In view of above, we don't find any rational to interfere with the findings of the AAR. And so, we rule as under.

RULING

The activity of the Appellant i.e. M/s Rara Udhog, Jaipur is not covered under Notification No. 11/2017-Central tax (Rate) dated 28/06/2017 and Notification No. 12/2017 – Central Tax (Rate) dated 28/6/17 . Hence Ruling of the AAR is upheld.


(Archana P. Tiwari)

Member(Central Tax)


(Alok Gupta)

Member (State Tax)

Speed Post

To

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



F.No. IV(16)AAAR/RAJ/03/2018-19/11821 to 11836

Date 05/10/2018

Copy to:-

1. The Chief Commissioner of CGST & Central Excise (Jaipur Zone) ,NCR Building, Statue Circle, Jaipur 302005
2. The Commissioner of SGST & Commercial Taxes, Rajasthan, Kar Bhawan, Near Ambedkar Circle, Jaipur 302005.
3. The Assistant/Deputy Commissioner of Central GST Division -F, Jaipur.
4. The State Tax Officer, Ward-3, Circle-C, Jaipur Zone-III, Divisional Kar Bhawan, Jhalana Institutional Area, Jaipur.
5. Guard File

9c

(Pramod Kumar Sharma)
Superintendent

