



**RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX**

**KAR BHAWAN, AMBEDKAR CIRCLE, NEAR
RAJASTHAN HIGH COURT
JAIPUR - 302005 (RAJASTHAN)**



**राष्ट्र
कर
बाजार**

ADVANCE RULING NO. RAJ/AAR/2019-20/13

J.P.Meena Additional Commissioner	:	Member (Central Tax)
Hemant Jain Joint Commissioner	:	Member (State Tax)
Name and address of the applicant	:	Sanjay Kumar Jain, Old Dhan Mandi, Kuchaman City, Nagour 341508
GSTIN of the applicant	:	08ACGPJ4177K1Z9
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	c. determination of the liability to pay tax on any goods or services or both ;
Date of Personal Hearing	:	27.06.2019
Present for the applicant	:	Shri Ajay Kumar Jain (Authorised Representative)
Date of Ruling	:	02.07.2019

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.





- At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".
- The issue raised by Sanjay Kumar Jain, Old Dhan Mandi, Kuchaman City, Rajasthan 341508 (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (c) given as under :
 - e. determination of the liability to pay tax on any goods or services or both;
- Further, the applicant being a registered person (GSTIN is 08ACGPJ4177K1Z9 as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

1. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

The applicant is engaged in business of cotton seed oil cake popularly called as 'Khal' in business language having HSN Code 2306. As per applicant this good is exempted under GST. The applicant pays freight on transportation of such goods.

2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:

Whether the applicant is liable to pay tax on the basis of reverse charge mechanism on the freight paid by the applicant on transportation of cotton seed oil cake having HSN code 2306?



3. PERSONAL HEARING



In the matter personal hearing was granted to the applicant on 27.06.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. On behalf of the applicant Shri Ajay Kumar Jain (Authorized Representative) appeared for PH. During the PH, he submitted that the applicant is presently paying the GST on reverse charge basis on freight charges. Few invoices were also submitted by the authorized representative. Further he also requested for early disposal of the application.

4. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdiction officer (Assistant Commissioner, CGST Division-C, CGST Jodhpur Commissionerate, Jodhpur) has submitted his comments vide letter dated 27.05.2019 and stated that, services of GTA in relation to transportation of goods are falling under Chapter Heading No. 9967 and attracting GST rate 5%. Further, no exemption has been granted on transportation of Cotton Seed cake under Notification No. 12/2017 dated 28.06.2017. Therefore, in view of the above it is submitted that the taxpayer is liable to pay tax on transportation of Cotton Seed Cake.

5. FINDINGS, ANALYSIS & CONCLUSION:

- a. We observe that, the applicant is engaged in trading of cotton seed oil cake which is also commonly known as "khal" in trade parlance. Presently the applicant is paying GST on the freight charges of transportation of cotton seed oil cake under RCM.
- b. While examining the copy of invoices submitted by the applicant during personal hearing, we observed that no GST has been charged on supply of goods received by the applicant.
- c. The applicant has filed application to ascertain whether he is





liable to pay tax on the freight charges paid on transportation of cotton seed oil cake under RCM.

- d. To determine whether applicant is liable to pay GST under RCM, we have to examine Notification No. 13/2017 dated 28.06.2017, the relevant provision is reproduced in the table below:-

Table

Sl. No.	Category of supply of services	Supplier of Service	Recipient of Service
1	Supply of Services by a goods transport agency (GTA), [who has not paid central tax at the rate of 6%,]1 in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union





registered or not under any law including association of persons; or (g) any casual taxable person. Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.	Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory
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The applicant uses service of GTA for transportation purpose, hence the applicant is recipient of service and concerned GTA is service provider. Being recipient of services the applicant is liable to pay GST as per the provisions mentioned in the above said Notification.

- e. Further, during the personal hearing the applicant submitted that since the transportation of food grains, milk and agricultural produce are exempted from GST similarly cattle feed and other articles of animal consumption might also be exempt. The contention of the applicant is purely hypothetical as GST liability is decided on the basis of factual position determined as per prevailing GST law. The various products of human consumption like milk and food grains are exempted from GST as goods as well as their transportation. The same is notified



through Notification No. 12/210 dated 28.06.2017, relevant provision is reproduced in the table below:-

Table

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
21	Heading 9965 or Heading 9967	Services provided by a goods transport agency, by way of transport in a goods carriage of – (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; (d) milk, salt and food grain including flour, pulses and rice; (e) organic manure; (f) newspaper or magazines registered with the Registrar of Newspapers; (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments.	Nil	Nil

The cotton seed oil cake is not exempted under the GST Act in general and is also not covered under Notification No. 12/2017 (as amended from time to time). Thus being recipient of GTA



services the applicant is liable to pay tax under Reverse Charge Mechanism.

6. In view of the foregoing, we rule as follows:-

RULING

The applicant is liable to pay GST under Reverse Charge Mechanism being recipient of GTA services.


J.P. MEENA 21/7/19
Member
(Central Tax)

O/C


HEMANT JAIN 21/7/19
Member
(State Tax)

SPEED POST

Sanjay Kumar Jain,
Old Dhan Mandi,
Kuchaman City,
Rajasthan, 341508



F.No. AAR/Sanjay Jain/2018-19/96-99 Dated: 02-07-2019

Copy to:-

1. Commissioner, SGST & Commercial Taxes, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, CGST and Central Excise Jodhpur Commissionerate, 117/5, PWD Colony, Near Riktiya Bhairooji Circle, Ratanada, Jodhpur, Rajasthan 342011.
3. Assistant Commissioner, CGST Division-C, CGST Jodhpur Commissionerate, 117/5, PWD Colony, Near Riktiya Bhairooji Circle, Ratanada, Jodhpur, Rajasthan 342011.