

 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR – 302005 (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2019-20/04

J.P.Meena Additional Commissioner	: Member (Central Tax)	
Hemant Jain Joint Commissioner	: Member (State Tax)	
Name and address of the applicant	M/s Gitwako Farms India Pvt. Ltd., Opp. Alwar Public School, Village- Kesarpur, Alwar Rajasthan 301001	
GSTIN of the applicant	08AAACG1096K1ZH	
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	a. Classification of any goods or services or both; b. Applicability of a notification issued under the provisions of the act;	
Date of Personal Hearing	: 03.04.2019	
Present for the applicant	: Shri Gaurav Gupta (Authorised Representative)	
Date of Ruling	: 18.04.2019	

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.

The issue raised by M/s Gitwako Farms India Pvt. Ltd., Opp. Alwar Public School, Village- Kesarpur, Alwar, Rajasthan 301001 (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a)(b) given as under :

- a. Classification of any goods or services or both;
- b. Applicability of a notification issued under the provisions of the act;

Further, the applicant being a registered person (GSTIN is 08AAACG1096K1ZH 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:**

- a. The applicant is private limited company incorporated in India having GSTIN 08AAACG1096K1ZH.
- b. It is one of the food processing companies having multiple production facilities across India. The company has its processing facilities at Opp. Alwar Public School, Village- Kesarpur, Alwar, Rajasthan 301001.
- c. The applicant is manufacturer of frozen and tinned products and is a registered supplier to the Indian Armed and paramilitary forces for around four decades.
- d. The company is supplying frozen chicken to the Indian Armed and paramilitary forces. The work order awarded to the company clearly provides for supply of a specified amount of weight of chicken dressed chilled / frozen over as specified period of time.



- e. As process of its supply, the bird is slaughtered and its carcass is processed, sealed and delivered in its natural shape. The processed carcasses are of different weights and sizes and vary from one animal to another. Each dressed chicken (broiler) carcass subsequent to chilling and before freezing shall be individually packed in to primary package Viz. suitable size oxygen-water impermeable, heat shrink, food grade colourless LDPE bags of minimum 200 gauge/50 micron.
- f. The LDPE bags are then put in to a dust and moisture proof and heat resistant food grade secondary package (HDPE Bag). On HDPE bags, contents (including product name, firm's name and brand, net weight (if required), batch number/lot number and instructions for consumptions and preservation of such chicken) are printed. The package is specifically mentioned for Defence Personnel Only. Frozen chicken is then delivered in temperature controlled refrigerated vans with data logger installed for continuous monitoring of frozen chicken.

2. **QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT**

- a. What is the classification when the Frozen Chicken is sold in packaged form and it's HSN Code?
- b. Whether frozen chicken as sold by the company is exempt under Entry No. 9 of Notification No. 02/2017-CT(R)?

3. **PERSONAL HEARING**

In the matter personal hearing was granted to the applicant on 03.04.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Shri Gaurav Gupta (Authorised Representative) of applicant appeared for PH. During the PH, he reiterated the submissions already made



in the application and also submitted additional documents. He further requested that the case may be decided at the earliest.

4. **COMMENTS OF THE JURISDICTIONAL OFFICER**

The jurisdiction officer (Assistant Commissioner, CGST Division-A, CGST Alwar Commissionerate, 1 Old Industrial Area, Behind Railway Station, Alwar, Rajasthan 301001) has submitted vide letter dated 18.03.2019 which can be summarized as under:-

The tax payer has to pack each dressed chicken individually into suitable sized LDPE bag. The packed chicken (broiler) carcass has to be then packed into dust proof, moisture and heat resistant food grade HDPE bags with thermal stability of minus 50 degree Celsius to plus 60 degree Celsius, capable of holding 10Kg to 20Kg or suitable plastic crates. Therefore, the quantity of dressed chicken (broiler) carcass to be packed individually is predetermined in this case. Hence, tax exemption is not available to the taxpayer.



5. **FINDINGS, ANALYSIS & CONCLUSION:**

- a. The applicant is supplying frozen chicken to the Indian Armed and paramilitary forces. The work order awarded to the applicant is for supply of dressed frozen chickens over specified period of time in Kgs.
- b. In the process, the bird is slaughtered and its carcass is processed, sealed and delivered in its natural shape. The processed carcass is of different weight and size and varies from one to another. Each dressed chicken (broiler) carcass subsequent to chilling and before freezing shall be individually packed in a primary package viz. suitable size oxygen-water impermeable, heat shrink, food grade colourless LDPE bags of minimum 200 gauge/50 micron.

- c. Further certain numbers of LDPE bags are packed in a dust and moisture proof and heat resistant food grade secondary package (HDPE Bag) so as to weigh between 10 to 20kgs. On every HDPE bag, the contents - product name, firm's name, brand name, net weight, batch number/lot number, instructions for consumptions and preservation of such chicken along with remark "For Defence Service Only" are printed. Frozen chicken is then delivered through temperature controlled refrigerated vans with data logger installed for continuous monitoring of frozen chicken.
- d. Frozen chicken in meat form is covered under Chapter 2 of Section I heading Live Animals, Animal Products of Customs tariff Act, 1975. The relevant portion of the said entry is as under:-

Tariff item	Description of Goods
0207	MEAT, AND EDIBLE OFFAL, OF THE POULTRY OF HEADING 0105, FRESH, CHILLED OR FROZEN - Of fowls of the species <i>Gallus domesticus</i> :
02071100	--Not cut in pieces, fresh or chilled
02071200	-- Not cut in pieces, frozen
02071300	-- Cuts and offal, fresh or chilled
02071400	-- Cuts and offal, frozen

The *gallus domesticus* is a technical name for chicken and is type of domesticated fowl. Thus frozen meat of chicken is covered under entry 0207 of the Customs tariff Act, 1975.

- e. The Notification No. 01/2017 dated 28.06.2017 has described GST on frozen chicken (*gallus domesticus*). The relevant portion of the said entry is as under:-



Schedule-II (GST@12%)

S.No.	Chapter/Heading/Sub-heading/tariff item	Description of Goods
7	0207	Meat and edible offal, of the poultry of heading 0105, frozen and put up in unit containers

The above entry of Notification No. 01/2017 dated 28.06.2017 was substituted vide Notification No. 41/2017 (CT) Rate dated 14.11.2017 as under:

Schedule-I(GST@5%)

S.No.	Chapter/Heading/Sub-heading/tariff item	Description of Goods
1	0207	All goods [other than fresh or chilled] and put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE]"



- f. The supply of unbranded chicken (other than frozen) in a unit container is exempted from GST vide Notification No. 02/2017-CT (Rate) dated 28.06.2017 further amended vide Notification No. 42/2017 dated 14.11.2017. The relevant portion of the said entry is as under:-

S.No.	Chapter/Heading/Sub-heading/tariff item	Description of Goods
9	0207	Meat and edible offal, of the poultry of heading 0105, {other than frozen and put up in unit containers}

- g. While going through the picture of HDPE bag submitted by the applicant used in the supply of the goods, we observe that:-



- i. It is branded in the name of GITWAKO.
 - ii. Packaged is sold on “actual weight basis”.
 - iii. A declaration is made that it is not a standard pack size under the Standard of Weights and measures (Packaged Common E3) Rules, 1977. etc
- h. The essential conditions applicable to determine whether goods supplied by the applicant fall under Schedule-I of Notification No. 01/2017 dated 28.06.2017 are as under:-
- (i). Goods should bear a registered brand name.
 - (ii). Goods should be frozen.
 - (iii). Goods should be placed in unit container.
- i. In the instant case we observe that the carcass of the chicken supplied by the applicant in a HDPE bag is frozen and is also branded thus fulfills two of the three necessary conditions. The same has also been accepted by the applicant in his submissions. As such for the purpose of applicability of GST, the only contention left to be ascertained is whether the HDPE bag used by the applicant for supply of goods qualifies as a unit container.
- The explanation given in Notification No. 01/2017 dated 28.06.2017 has described definition of unit container as under:-

The phrase “unit container” means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a predetermined quantity or number, which is indicated on such package.

- We further observe that:-

The HDPE bags are designed to hold a predetermined quantity or number, so as to carry carcass weighing between


10 to 20 kgs, as is evident from the document submitted by the applicant i.e. Specification No. 209D of Defence Food Specifications-2016, Secretariat of the Technical Standardiation Committee (Food Stuffs) (Directorate general of Supplies and transport).

- After the goods are packed in the HDPE bags, the actual weight is mentioned on each bag before the supply of goods, which is also evident from the remark printed on the bags (*sold on actual weight basis*). Thus it is clear that the goods supplied in the HDPE bags are of predetermined quantity hence qualifies to be a unit container.
- In view of the above facts we observe that the supply of goods by the applicant fulfill the conditions mentioned in Notification No. 01/2017 dated 28.06.2017(as amended from time to time) i.e. goods are branded, frozen and supplied in a unit container and will attract GST @5% (CGST 2.5% + SGST 2.5%).


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

RULING

- a. The Branded Frozen Chicken supplied in a unit container is classifiable under HSN Code 02071200.
- b. The Frozen Chicken supplied by the applicant is not exempted under Entry No. 9 of Notification No. 02/2017-CT(Rate) dated 28.06.2017(as amended from time to time).


J.P.MEENA 18/4/19
Member
(Central Tax)




HEMANT JAIN 18/4/19
Member
(State Tax)

SPEED POST

M/s Gitwako Farms India Pvt. Ltd.,
Opp. Alwar Public School,
Village- Kesarpur, Alwar
Rajasthan 301001

o/c

F.No. AAR/Gitwako/2019-20/3-16



Dated: 22.04.2019

Copy to:-

1. Commissioner, SGST & Commercial Taxes, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, CGST and Central Excise Alwar Commissionerate, Block-A, Surya Nagar, Alwar, Rajasthan 301001.
3. Assistant Commissioner, CGST Division-A, CGST Alwar Commissionerate, 1 Old Industrial Area, Behind Railway Station, Alwar, Rajasthan 301001.