



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/30/2021

Date:11.02.2022

TSAAR Order No.05/2022

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s. Ganga Kaveri Seeds Pvt. Ltd, 1406 and 1407, 14TH Floor, Babukhan Estate, Basheerbagh, Hyderabad, Telangana- 500001 (36AAACG3220D1ZB) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.

4. **Brief facts of the case:**

M/s. Ganga Kaveri Seeds Pvt. Ltd is engaged in production and sale of agricultural seeds. In the process of production, the applicant outsources certain services such as cleaning, drying, grading and packing to the job workers and stores the seeds in various facilities after processing them. In the process they also transport the seeds by engaging a GTA. The applicant is desirous for ascertaining whether the services obtained by them in production of the seeds from other agencies including GTA are taxable or exempt. Hence this application.

5. **Questions raised:**

1. Whether the seeds produced/ procured and processed, packed and sold by the Applicant as seeds for sowing are agricultural produce in terms of the definition under the Notification No. 12/2017- Central Tax (Rate) dated 28-06-2017 and 11/2017- Central Tax (Rate) dated 28-06-2017.
2. Whether the storage of the seeds in the leased storage facility/godowns, loading, unloading and packing of the seeds (heading No.9986) by the job worker on job work basis are exempt from payment of GST in terms of Sl.No.54(e) of the Notification No. 12/2017- Central Tax (Rate)dated 28-06 2017 and Sl.No.24(1)(e) of the Notification No. 11/2017- Central Tax (Ret)dated 28-06-2017 or any other entry/entries of the above notifications.
3. Whether the processes, namely, cleaning, drying, grading and treatment with chemicals (heading No.9986) carried out by the job worker on job work basis are exempt from payment of GST in terms of Sl.No.54(c), (h) of the Notification No. 12/2017- Central Tax (Rate)dated

28-06-2017 read with the definition of "agricultural produce" there under and Sl.No.24(1)(c), (h) and (ill) of the Notification No. 11/2017- Central Tax (Rate)dated 28-06-2017 read with the definition of "agricultural produce" thereunder or any other entry/entries of the above notifications.

4. Whether the transport of seeds from the farm lands to storage facility/godown of the applicant, transport of seeds from one storage facility/godown of the applicant to the other storage facility/godown of the applicant, transport of packed seeds from storage facility/godown of the applicant to the distributor and transport of sales-returns, if any, (heading No.9965 or 9967) is exempt from payment of GST in terms of Sl.No. 21(a) of the Notification No. 12/2017- Central Tax (Rate)dated 20-06-2017 or any other entry/entries of the above notifications.
5. In respect of the processes undertaken by the applicant, namely, cleaning, drying, grading, treatment with chemicals and packing (heading No.9986), for himself, whether any 'supply is involved in terms of section 7(a) of the CGST Act, 2017, so as to be taxable

6. **Personal Hearing:**

The Authorized representatives of the unit namely T.Satyamurthy, Advocate and Vijayendar Reddy, Managing Partner attended the personal hearing held on 05-01-2022. The authorized representatives reiterated their averments in the application submitted and contended as follows:

1. They would like a clarification on (5) questions raised by them by way of advance ruling.
2. That a final audit report was issued on 29.05.2020 and subsequently a show cause notice was issued to which they have already submitted a reply.
3. That as their application is earlier to the audit report they are eligible for clarification from AAR.
4. That notwithstanding the above the audit report of the SCN covers only (1) question i.e., question no. (4) Submitted to AAR.

7. **Discussion & Findings:**

The applicant M/s. Ganga Kaveri Seeds Pvt. Ltd averred that they produce seeds namely maize, paddy, sunflower, bajra, wheat, cotton, jute, sorghum, mustard etc., That the production and sale of the seeds involves cleaning, grading, treatment with pesticide/insecticide, packing and storing the same.

In this connection, it is observed that the Seed Act, 1966 defines seed at Section 2(11) as:

"Seed" means any of the following classes of seeds used for sowing or planting-

- (i) Seeds of food crops including edible oil seeds and seeds of fruits and vegetables;
- (ii) Cotton seeds;
- (iii) Seeds of cattle fodder;

And includes seedlings, and tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material, of food crops or cattle fodder;"

Thus all grain do not qualify to be seed. Further the sale and purchase of 'seed' is subject to the provisions of Seed Control Order, 1983 and any deviations from the control rules contained in the said order are punishable under the law.

Even in the context of GST law, 'Seed' is treated separately from 'grain'. Therefore seed is included at Serial No. 79 of Notification No. 02/2017 dated: 28.06.2017 wherein exemption is accorded to '**all goods of seed quality**'. Clearly GST law also makes a distinction between grain and seed, therefore even if grain is taxable it will be exempt if it is of seed quality.

For example: Serial No. 65 of Notification No. 01/2017 clearly states that tax can be levied @5% on Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken **other than of seed quality**. Thus groundnut is taxable in grain form and not in seed form.

Hence seed and grain are not one and the same. The law applicable to grain and seed will be different and therefore concessions applicable to grain produced by a cultivator will not be applicable to seed.

Now coming to the definition of agricultural produce at item 2(d) of Notification No. 12/2017 "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**;

As seen from the above, not all produce of cultivation will qualify to be agricultural produce. The litmus test for any produce of cultivation to qualify as agricultural produce is 5 fold:

1. It should be a produce out of cultivation of plants or animals.
2. It should be meant for food, fibre, fuel, raw materials or other similar products.
3. It should be subjected to no further processing.
4. Even if processing is done, it should be similar to processing done by a cultivator or a producer.
5. Such processing should not alter essential characteristics and only make it marketable for primary market i.e., mandis or agriculture market committees.

The applicant is supplying goods which are produce of cultivation of plants. However they are of seed quality and not grain, therefore further they are not meant for food, fibre, fuel or raw material for further processing. In the definition of agricultural produce, the word 'raw material' is used which is a general word and is in the company of specific words i.e., food, fibre and fuel. These specific words indicate direct consumption by human or in industry but not in cultivation.

The Hon'ble Supreme Court of India in the case of Godfrey Philips India Vs State of U.P 2005 (139) STC 537, held that when 2 or more words susceptible of analogous meaning are clubbed together, they are understood to be used in their cognate sense. They take, as it were, their colour from and are qualified by each other, the meaning of the general word being restricted to a sense analogous to that of the less general. In this case, it was held that even in case of inclusive definition, principle of noscitur a sociis can be applicable.

Applying this rule to the present facts, supply of seed does not fall under the definition of agricultural produce as the seed does not fulfill the utilities prescribed therein.

Similarly the said definition restricts the 'agricultural produce' to unprocessed goods. Further even if 'processing' is done it should be 'such processing' as done by a 'cultivator' for 'primary market'. Essentially processed agricultural products do not fall under this definition. If any processing is done it should be on an equal footing to that done by a "cultivator for primary market" i.e., processing made by a farmer for agricultural mandi. Even if the farmer does any different processing such produce will not fall under this definition.

The facts presented by the applicant clearly indicate that the processing done by them to turn grain into seed quality goods is different from the processing done by a cultivator or producer of grain for primary market i.e., agricultural mandi or agricultural market yard. Therefore even on this count, the seed quality goods produced by them cannot be treated as agricultural produce.

Therefore the seeds produced by them do not qualify as agricultural produce and hence:

1. Storage of seeds in the storage facility/godown, loading/unloading and packaging by job worker are not exempt under:
 - a. Serial No. 54E of Notification No. 12/2017 as this entry pertains to 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. This entry relates to exemption of services engaged by a cultivator or an agriculturalist and not to services engaged by Seed Company.
 - b. Serial No. 24(i)(e) of Notification No. 11/2017 as this entry pertains to support services to agriculture, forestry, fishing, animal husbandry engaged by a cultivator and not to services engaged by a seed company.
2. Cleaning, drying, grading and treatment with chemicals carried out by a job worker or on job work basis are not exempt under:
 - a. Serial No. 54(c)(h) of Notification No. 12/2017 as this entry pertains to 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. This entry relates to exemption of services engaged by a cultivator or an agriculturalist and not to services engaged by Seed Company.

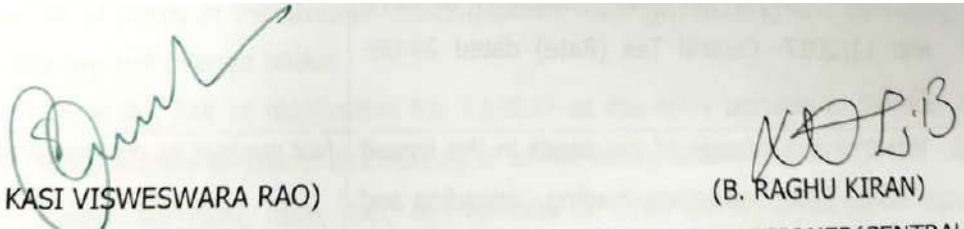
- b. Serial No. 24(i)(c) & (h) of Notification No. 11/2017 as this entry pertains to support services to agriculture, forestry, fishing, animal husbandry engaged by a cultivator and not to services engaged by a seed company.
3. Transportation of seeds from farm to storage facility and then transportation of packed seed from storage facility to distributors is not exempt under:
- a. Serial No. 21(a) of Notification No.12/2017, as this entry provides exemption on transportation services to agricultural produce and from the foregoing discussion it is established that seed is not agricultural produce in terms of the definition used in the notification, the transportation services engaged by a seed company are not exempt.
4. If processing is undertaken by an applicant himself for in house seed production, there is no supply and hence exempt.

8. The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1) Whether the seeds produced/ procured and processed, packed and sold by the Applicant as seeds for sowing are agricultural produce in terms of the definition under the Notification No. 12/2017- Central Tax (Rate) dated 28-06-2017 and 11/2017- Central Tax (Rate) dated 28-06-2017.	Seed is not an agricultural produce in terms of the definition in the said notifications.
2) Whether the storage of the seeds in the leased storage facility/godowns, loading, unloading and packing of the seeds (heading No.9986) by the job worker on job work basis are exempt from payment of GST in terms of Sl.No.54(e) of the Notification No. 12/2017- Central Tax (Rate)dated 28-06 2017 and Sl.No.24(1)(e) of the Notification No. 11/2017- Central Tax (Ret)dated 28-06-2017 or any other entry/entries of the above notifications.	Not exempt as discussed above.
3) Whether the processes, namely, cleaning, drying, grading and treatment with chemicals (heading No.9986) carried out by the job worker on job work basis are exempt from payment of GST in terms of Sl.No.54(c), (h) of the Notification No. 12/2017- Central Tax (Rate)dated 28-06-2017 read with the definition of "agricultural produce" there under and Sl.No.24(1)(c), (h) and (ill) of the Notification No. 11/2017- Central Tax (Rate)dated 28-06-2017 read with the definition of "agricultural produce" thereunderor any other entry/entries of the above notifications.	Not exempt as discussed above.
4) Whether the transport of seeds from the farm lands to storage facility/godown of the applicant, transport of seeds from one storage facility/godown of the applicant to the other storage facility/godown of the applicant, transport of packed seeds from storage facility/godown of the applicant to the distributor and transport of sales-returns, if any, (heading No.9965 or 9967) is exempt from payment of GST in terms of Sl.No. 21(a) of the Notification No. 12/2017- Central Tax (Rate)dated 20-06-2017 or any other entry/entries of the above notifications.	Not exempt as discussed above.
5) In respect of the processes undertaken by the applicant, namely, cleaning, drying, grading, treatment with chemicals and packing (heading	Supply to self is exempt.

No.9986), for himself, whether any 'supply is involved in terms of section 7(a) of the CGST Act, 2017,so as to be taxable	
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(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER(STATE TAX)

(B. RAGHU KIRAN)
ADDL. COMMISSIONER(CENTRAL TAX)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. Ganga Kaveri Seeds Pvt. Ltd,
1406 and 1407, 14TH Floor, Babukhan Estate,
Basheerbagh, Hyderabad, Telangana- 500001.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Hyderabad Commissionerate, Room No. 813, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad 500 004.

Copy to:

1. Superintendent (Central Tax) Gunfoundry – I Range. 1st Floor, H.No.5-8-196-207, 207A, Jusbagh, Nampally, Hyderabad - 500 001.

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Superintendent Grade-I