



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 J. Laxminarayana, Additional Commissioner(Grade-I) (State Tax)

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

A.R.Com/37/2018

Date.04-01-2020

TSAAR Order No.01/2020

(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)

1. M/s. Gubba Cold Storage Private Limited, Flat No.25, P and T Colony, Lane Opp SBI Bank, Trimulgherry, Secunderabad, Telangana, (GSTIN No. 36AAACG7442D1ZV) have filed an application in **FORM GST ARA-01** under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules, seeking Advance Ruling with regard totax implication in respect of supply of certain services mentioned in their application.
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 to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean 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 SGSTand Rs. 5000/- 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 concerned jurisdictional officer also raised no objection to the admission of the application. The application is therefore, admitted.
4. **Brief facts of the case:**
The facts, in brief, that were reported by the tax payer in their application are as follows:
 - a. They are dealing in services which are in the nature of storage and ware housing of agricultural produce, food grains including pulses and rice etc.;
 - b. They are renting or leasing of agro machinery or vacant land with or without structure incidental to its use, in relation to agricultural produce;
 - c. They are using leased premises for storage of agricultural produce which is exempted from GST and lessor is insisting to pay GST on lease charges and the lessee is denied to pay GST on lease charges where the lessee is using the premises for storage of agricultural produce only.

5. Questions raised:

With the above background, the applicant raised the following queries:

- i) What are tax implications in GST regime using leased premises for cold storage purpose of agriculture produce on leasing charges?
- ii) What are tax implications in GST regime on cold storage leased on rent for storage with or without preservation and maintenance to Private Enterprises?
- iii) What are tax implications in GST regime on seeds/agricultural produce for storage or warehousing on behalf of farmers and traders?

6. Contention of the tax payer:

The taxpayer have contended that:

- 1) Supply of services by way of renting immovable property for commercial purpose is a taxable supply under GST law and attracts levy of GST @ 18%;
- 2) Having said so, services in the nature of storage and ware housing of agricultural produce, food grains including pulses, rice etc., are fully exempted from GST;
- 3) Further, renting or leasing of agro machinery or vacant land with or without a structure incidental to its use, in relation to agricultural produce would also be exempt.

7. Personal Hearing:

A personal hearing was held on 04-12-2019 at 03.00 P.M. Sri R. Giri Rao, Authorized representative along with Sri Srinivas, General Manager of M/s. Gubba Cold Storage Private Limited appeared for the personal hearing. They reiterated the facts mentioned above and sought for clarifications in respect of the queries raised in their application. They submitted, copies of the agreements entered with the following companies relating to taking lease of the cold storage facility and in connection with providing of storage services of agricultural produce:

- (i) M/s Nuziveedu Seeds Limited (Lessor) and M/s Gubba Cold Storage Private Limited (Lessee) –with regard to taking lease the cold storage facility;
- (ii) M/s Vibhav Cold Storage (Lessor) and M/s Gubba Cold Storage Private Limited (Lessee) –with regard to taking lease the cold storage facility;
- (iii) M/s Ponalab Biogrowth (P) Ltd (Lessee) and M/s Gubba Cold Storage Private Limited (Lessor) –in connection with providing of cold storage facility for seeds.

8. Discussion & Findings:

8.1 We have considered the submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing. As seen from the application, the applicant appears to have engaged in providing the services which are in the nature of storage of agricultural produce. For this purpose, they took the cold storage facility owned by other entities on lease basis. They produced copies of agreements with various companies in support of the same. Relevant extract of one such agreement provided by the applicant is reproduced below:



తెలంగాణ తెలంగాణ TELANGANA

29/11/15 Date 17/04/2015 Rs. 100/-

o..... N. Sachidhar

o.W/o N. Lakshmaiah

o.M/s GUBBA STORAGE (P) LTD

P. Prasad Rao

P. PRASAD RAO A 9110

LICENSED STAMP VENDOR
L.No. 16-11-03/07, R.No. 16-11-19/2013
R/o 6-3-1185/164, BEGUMPET
HYDERABAD.
HYDERABAD (SOUTH) DIST
Cell - 9866978322

LEASE DEED

This LEASE DEED is made and executed on this...st day of ~~Nov~~ 2015 at Hyderabad by and between:

M/s VAIBHAV COLD STORAGE, a partnership firm whose registered office is situated at 84C & G situated at Yellampet Village & Gram Panchayat, Medchal Mandal, Ranga Reddy District represented by its first partner and third partner Mr. Ramnivas Bhutada S/o Late Sri Raghunathmal Bhutada, aged about 63 years, R/o Plot NO.71/A/A, MLA Colony, Banjara Hills, Hyderabad and Mr. Dhanraj Soni S/o Sree Kishan Soni, aged about 49 years, R/o 8-2-686/19, Road No.12, Banjara Hills, Hyderabad.

(Hereinafter called the "LESSOR" which expression shall mean and include all the partners, their legal heirs, legal representatives, successors-in-interest-in-title, executors, administrators and assignees etc, of the first part).

AND

M/s GUBBA COLD STORAGE PVT LIMITED, having registered office at premises Plot No.25, Lane opp.SBI Trimulghery, P&T colony, Trimulghery, Secunderabad represented by its Managing Director Sri Gubba Nagender Rao S/o Late Sri Gubba Kashinatham, aged about 62 years, R/o Plot No.6, Tirumala Housing society, Lane beside foodworld, Karkhana, Secunderabad (Hereinafter called the "LESSEE" which

Contd/2..

For VAIBHAV COLD STORAGE

For Gubba Cold Storage Pvt. Ltd.

Managing Director

Partner

expression shall mean and include all its directors, their legal heirs, legal representatives, successors-in-interest-in-title, executors, administrators and assignees etc., of the second part).

WHEREAS the LESSORS is a partnership firm, having four partners out of which first and third partners have represented their partnership firm, having purchased Ac.1.0 land in Survey No 84 C & G situated at Yellampet village, Medchal Mandal, Ranga Reddy District, constructed warehouse for storage of agriculture produced on the land owned and possessed by the individual partners in their names by investing their individual respective capitals under the partnership firm name and style M/s VAIBHAV COLD STORAGE. After constructing the above said warehouse at the above said 84 C & G, Yellampet Village, Medchal Mandal, Ranga Reddy District under the partnership firm name and style of M/s VAIBHAV COLD STORAGE, the partnership firm found it difficult to carry on the same and intended to lease out the above said warehouse.

WHEREAS the party of the second part i.e., Lessee M/s GUBBA COLD STORAGE PVT. LTD , represented by its Managing Director Mr. Gubba Nagender Rao approached to the party of the first part i.e., LESSOR and expressed its desire to take the above said warehouse constructed by the partnership firm along with office room at a monthly warehouse charge.

The Lessor have agreed to the offer of lease out of the above said warehouse at the above said monthly warehouse charges which has to be paid by the lessee on or before 10th day of every succeeding English calendar month. To avoid any further complications or misunderstanding in the terms of the lease deed it has been agreed by the above said lessor and lessee to reduce into writing the following terms and conditions in leasing of the above warehouse.

THIS LEASE DEED FURTHER WITNESSETH AS UNDER:

1 That the lessor representing the partnership firm carrying under name and style of M/s VAIBHAV COLD STORAGE are the possessors of the cold storage plant and warehouse along with land owned by Mr.Ramnivas Bhutada and Mr.Dhanraj Soni, in Ac.1.0 at Survey No.84 C&G, situated at Yellampet village, Medchal Mandal, Ranga Reddy District have delivered the vacant peaceful possession of the above said into warehouse.

2. That the lessor had a condition that in above said warehouse one should store only the agriculture products. Either directly brought by the farmer, dealer, company, AOP, Society etc., the lessee agreed and confirmed that they will store agriculture produce only.

3. That the above said lease is fixed for a period of 15 years from the date of execution of this lease deed. Which begins from 1-7-2015 to 23-6-2030. The Lessee charges shall have to enhance from time to time which is as follows:

Contd/3..

For Gubba Cold Storage Pvt. Ltd.

Managing Director

For VAIBHAV COLD STORAGE

Partner

Further, the applicant appears to have entered into agreements with their customers for providing storage services. Relevant extract of such agreement is reproduced below:

తెలంగాణ తెలంగాణ TELANGANA
 Date: 30-07-2016. Rupees: 100/-
 Tosh Kumar
 R/o Hyd
 M/s Gubba Cold Storage (P) Ltd, Hyd

F 024480
 M.SANJEEVA REDDY
 Govt.L.S.V.Lic No.16-07-006 of 15
 R.Licence No.16-07-003 of 2016
 H.No.5-2-436/A, Risala Abdulla,
 Hyderabad, T.S Ph:24615453

Service Provider
Service Receiver

AGREEMENT

This lease deed is made and executed on this the day of 30th of July, 2016 at Hyderabad by and between:

M/s. Ponalab Biogrowth Pvt Ltd a Private Limited Company incorporated under the Indian Companies Act 1956 having its office at # 134, Nagalaxmi Tower, 3rd floor, 20th main road, Rajajinagar, 5th Block, Bangalore, hereinafter called as LESSEES which expression shall mean and include their heirs, legal representatives, successors-in-interest executors, administrators AND assigns etc.,

AND

M/s GUBBA COLD STORAGE PRIVATE LIMITED., having its registered office at # Plot No. 25, Lane Opp. SBI Trimulghery, P & T Colony, Trimulghery, Secunderabad, Telangana. Represented herein by its Director, Mr. GUBBA KIRAN, S/o Mr. Gubba Nagender Rao, hereinafter called as LESSORS which expression shall mean include their heirs, Legal representatives, successors-in-interest, executors, administrators and assigns etc.,

OR

For Gubba Cold Storage Pvt. Ltd

[Signature]

For PONALAB BIOGROWTH PRIVATE LIMITED

[Signature]
 MANAGING DIRECTOR

M/s. GUBBA GREEN COLD PVT. LTD., having its registered office at # Plot No. 25, Lane Opp. SBI Trimulghery, P & T Colony, Trimulghery, Secunderabad, Telangana. Represented herein by its Director, Mr. GUBBA KIRAN, S/o Mr. Gubba Nagender Rao, hereinafter called as LESSORS which expression shall mean include their heirs, Legal representatives, successors-in-interest, executors, administrators and assigns etc.,

OR

M/s GNR COLD STORAGE PRIVATE LIMITED, having its registered office at # Plot No. 25, Lane Opp. SBI Trimulghery, P & T Colony, Trimulghery, Secunderabad, Telangana. Represented herein by its Director, Mr. GUBBA KIRAN, S/o Mr. Gubba Nagender Rao, hereinafter called as LESSORS which expression shall mean include their heirs, Legal representatives, successors-in-interest, executors, administrators and assigns etc.,

OR

M/s. GUBBA AGRO FRESH PVT. LTD., having its registered office at # Plot No. 25, Lane Opp. SBI Trimulghery, P & T Colony, Trimulghery, Secunderabad, Telangana. Represented herein by its Director, Mr. GUBBA KIRAN, S/o Mr. Gubba Nagender Rao, hereinafter called as LESSORS which expression shall mean include their heirs, Legal representatives, successors-in-interest, executors, administrators and assigns etc.,

WHEREAS the Lessors are the absolute owners of the COLD STORAGE FACILITY situated as under:

- Survey No.150 &151, Athavelli village, Medchal Mandal, R R District, which shall hereinafter be referred to as the said 'Schedule Property'-(GUBBA COLD STORAGE-Y5)
- Plot No.101 & 103, I D A, Medchal, R R District, which shall hereinafter be referred to as the said 'Schedule Property'-(GUBBA AGRO FRESH-M2)
- Survey No. 46, Mediciti Hospital road, Rajbollaram village, Medchal Mandal, R R Dist. which shall hereinafter be referred to as the said 'Schedule Property'-(GNR COLD STORAGE-R1)
- Survey No.151/A/2, Athavelli village, Medchal Mandal, R R District, which shall hereinafter be referred to as the said 'Schedule Property'-(GUBBA GREEN COLD-Y4)
- Sy.No..85/B, Yellampet Village, Medchal Mandal, R R Dist. which shall hereinafter be referred to as the said 'Schedule Property'-(GUBBA COLD STORAGE-Y3)
- Sy. No 84/C & G Yellampet, medchal mandal R R District which shall hereinafter be referred to as the said 'Schedule Property'-(GUBBA COLD STORAGE-Y6)
- Sy.No.255, Near outer ring road, kandlakoya village, Medchal madal R R Dist. which shall hereinafter be referred to as the said 'Schedule Property'-(GUBBA COLD STORAGE-K2)
- Sy.No.271, Muppireddypalli village, Toopran Mandal, Medak Dist.(GUBBA AGRO FRESH-K1)

For Gubba Cold Storage Pvt. Ltd

[Signature]

For PONALAB BIOGROWTH PRIVATE LIMITED

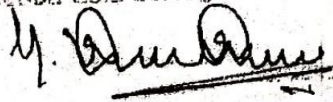
[Signature]
 MANAGING DIRECTOR

and conditions:

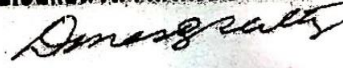
1. The Lessees have approached the Lessors for keeping its Seeds in de-humidified cold storage chamber and the Lessors have agreed for the same and the Lessors will maintain a temperature of 10 Degrees Centigrade to 15 Degrees Centigrade, with a Relative Humidity at 40% to 50% for the stocks to be stored.
2. The Lease period will commence from 1.12.2015 and shall subsist up to 30.11.2018 and will be renewed by mutual understanding subject to enhancement of the lease charges in accordance with the prevailing rates at the time of such renewal.
3. The Lessor & Lessee have agreed to the following Rates for storage of seeds

Maize, Bajra, Jowar	28 paise per kg per month
Cotton & Veg. seed	33 paise per kg per month
Paddy & Sunflower	38 paise per kg per month
4. The Lessee hereby agrees to pay for a minimum billing of Rs 5,000/- is done, else Rs. 5000/- will be billed.
5. Highest quantity of the month will be considered for billing.
6. Yearly Price escalation of 5%.
7. It is hereby mutually agreed that an email message with a secured digital signature emanating from lessee to the lessor shall be sufficient evidence for effecting variation in the CFT/KGS/PALLETS by the Lessee.
8. THAT it is hereby agreed between both the Lessees and the Lessors that in the event of the stocks being kept in the Cold Storage get spoil for reasons beyond the control of the Lessors – the Lessors liability for the same would be limited to Cold Storage charges of the stocked product only.
9. Insurance for the premises will be covered by the Lessors and insurance of Stocks goods shall be liability of Lessee.
10. The Lessee shall insure for the goods stored by way of Comprehensive Insurance cover against all risks including force Majeure failing which no claim shall be maintainable against Lessor in the event of any damage or loss being caused to warehoused goods under any circumstances whatsoever.

For Gubba Cold Storage Pvt. Ltd.



For PONALAB BIOGROWTH PRIVATE LIMITED


MANAGING DIRECTOR

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8.2 We feel that to determine the tax liability in respect of the services mentioned in the queries, it is pertinent to refer to the Sl. No. 54 of Not. No. 12/2017-CT (R) dated 28.06.2017 as amended [SGST Not. No. 12/2017-ST(R) dated 29-06-2017 as amended] which provides for exemption from GST in respect of certain services in relation to agricultural produce. The same is reproduced below:

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of services	Rate (percent)	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,</p>	Nil	Nil

	<p>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, <i>packing, storage or warehousing of agricultural produce</i>;</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>(h) services by way of fumigation in a warehouse of agricultural produce.</p>		
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8.3 As can be seen, Sl. No. 54(e) of the aforesaid notification provides for exemption from GST in respect of supply of services rendered for storage in relation to the agricultural produce. It is noticed that the term 'agricultural produce' has been defined under clause 2(d) of the Notification *ibid*. Thus, the supply of service for **storage or warehouse** of goods is exempted if the same is provided in connection with storage or warehousing of 'agriculture produce' as defined in clause 2(d) of Not. No. 12/2017-CT (R) dated 28.06.2017 as amended. We further find that the notification is with regard to service supplied and not person specific. As such, the entry No. 54(e) is equally applicable for storage services in respect of agricultural produce of both the farmers and the traders.

8.4 Coming to the issue of tax liability on leasing services availed by the applicant with regard to the cold storage facility, we opine that if the agreement is purely for renting/leasing of the premises of cold storage by one entity to another entity, then the said activity amounts to renting/leasing of immovable property and does not fall within the ambit of storage services. In terms of clause (a) of para 5 of the Schedule II (appended to the GST Act), read with Section 7 of the GST Act, renting of immovable property is to be treated as supply of service. Thus, providing non-residential property on rental basis is a supply of service which is classifiable under SAC No.997212. The said supply of service is chargeable to tax @18% under residuary entry at Sl. No. 35 of Not. No. 11/2017-CT (R) dated 28.06.2017 as amended [SGST Not.No. 11/2017-ST (R) dated 29-06-2017 as amended].

Advance Ruling

9. In view of the observations stated above, the following rulings are issued :

Q1. What are tax implications in GST regime using leased premises for Cold Storage purpose of agriculture produce on Leasing Charges.	Ans: Taxable @ 18%.
Q2. What are tax implications in GST regime on Cold Storage Leased on rent for storage with or without preservation and maintenance to Private Enterprises?	Ans: Taxable @ 18%.

<p>Q3. What are tax implications in GST regime on Seeds/Agricultural Produce for storage or Warehousing on behalf of Farmers and Traders?</p>	<p>Ans: Exempted if the supply of service is for storage or warehousing of 'agriculture produce' as defined in clause 2(d) of Not. No. 12/2017-CT (R) dated 28.06.2017 as amended</p>
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Sd/-J. Laxminarayana
ADDL. COMMISSIONER (State Tax)

Sd/- B. Raghu Kiran
JOINT COMMISSIONER (Central Tax)

To
M/s. Gubba Cold Storage Pvt. Ltd.,
Flat No. 25, P & T Colony lane,
Opp: SBI Bank, Trimulghery,
Secunderabad- 500 015.

Copy submitted to :
1. The Commissioner (State Tax) for information

Copy to:
1. The Commissioner (Central Tax), Medchal Commissionerate.
2. The Joint Commissioner (State Tax), Saroornagar
3. The Superintendent (Central Tax & GST), Cantonment Range.

//t.c.f.b.o//

Additional Commissioner(ST) (Grade-I)