

AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
5TH FLOOR, ROOM NO.503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI - 600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF
THE GOODS AND SERVICES TAX ACT, 2017.

Members present are:

Shri. R.Gopalsamy, I.R.S., Additional Commissioner /Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai 600034	Tmt. N.Usha, Joint Commissioner (Commercial Taxes)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu. Chennai 600003
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ORDER No.37/AAR/2022 Dated: 30.11.2022

1. Any appeal against this Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, under Sub-section (1) of Section 100 of Central Goods and Service Tax Act / Tamil Nadu Goods and Service Tax Act 2017("the Act" in short) within 30 days from the date on which the ruling sought to be appealed against is communicated.
2. In terms of Section 103(1) of the Act, this Advance ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void *ab-initio* in accordance with Section 104 of the Act.
5. At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

GSTIN Number, if any / User id		33AAIFE2739G1ZL
Legal Name of Applicant		EMS COCOS.
Registered Address / Address provided while obtaining user id		3/1,Pottaiyandipuram,Mulaikadai, Pottayandiporambu, Sokkanur, Kinathukadavu, Coimbatore 642109
Details of Application		Form GST ARA – 001 Application Sl.No.24/2022/ARA dated 21.04.2022.
Concerned Officer		Centre: Coimbatore Commissionerate State: Pollachi Rural Assessment circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Manufacturer and trader
B	Description (in brief)	Manufacturer and trader of coconuts, copra and coconut shells.
Issue/s on which advance ruling required		Classification of goods
Question(s) on which advance ruling is required		Whether the dried coconuts (shelled or peeled) used for human consumption shall be classified under Chapter 8, HSN 0801, on which rate of tax is 'NIL'.

M/s EMS COCOS, having registered office at No. 3/1, Pottaiyandipuram, Mulaikadai, Potayandiporambu, Sokkanur, Kinathukadavu, Coimbatore,642109, is a partnership concern, engaged in the activities of Manufacturing and Trading of Coconut,Copra and coconut shells. M/s EMS COCOS (hereinafter called the 'Applicant') is registered under the GST with GSTIN:33AAIFE2739G1ZL. The Applicant has sought Advance Ruling on the following question:

“Whether the dried coconuts (shelled or peeled) used for human consumption shall be classified under Chapter 8, HSN 0801, on which rate of tax is 'nil'.”

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

1.0 The Applicant has stated that they are engaged in the activities of Manufacturing and Trading of Coconut, Copra and Coconut shells. They have submitted the process involved in their manufacture of dried coconuts and copra as under–

- Coconuts are cut into half and dried in sunlight.
- Sun dried coconuts are then de-shelled and further dried on black stone.

- Edible Dried coconut ('copra' in trade parlance) are selected for human consumption and separated from milling Copra.
- Dried coconut (copra) which is edible for human consumption, shall be polished, edges corrected and dirt will be removed manually so as to make it ready for human consumption
- On the other hand, the left-out copra in the field (milling copra) which is not fit for human consumption will be sold to oil mills for oil extraction, without any further polishing or dust removing process.

2.0 The Applicant has stated, *inter-alia*, that they are paying 5% GST rate for both Dried coconut and milling copra. Now, the Applicant desires the clarification as to whether the edible copra (dried coconut) shall be classified under HSN 08011920 and taxed at NIL GST rate. Along with form GST ARA 01 the applicant has attached copies of HSN and journal on European Union showing that Coconut fresh or dried, whether or not shelled or peeled under Chapter 0801. Also, they had submitted copy of AAR Order No. 39/ARA/2019 dated 27.08.2019 in the case of M/s Shree Parshwanath Corporation and copy of step by step guide to produce edible copra and milling copra in their factory, supported by photos.

3.0 Personal hearing was held in digital platform on 15.06.2022, wherein Shri. Vivek Sharma, Manager (Authorised Representative –AR), appeared for the hearing virtually and reiterated their submissions. On being queried about the source of copra, the AR replied that coconut was procured from farmers in Kerala and Tamilnadu. To the query as to whether they have facility for oil extraction, AR replied that they do not have oil extraction facility and that they supply copra for human consumption and oil extraction.

3.1 Further, to the query regarding how the decision is taken whether to use the copra for human consumption or for oil extraction, the AR replied that it is decided based on the moisture content and that segregation depends on the orders. The AR was asked to submit documents relating to the process undertaken in respect of edible copra, FSSAI certificate for dealing with edible product and invoice copies for both edible copra and milling copra along with purchase order copies. The Applicant submitted the following documents which were received on 14.07.2022.

- i. Copy of FSSAI license number 10021042000308 dated 20.02.2022 (renewal license) valid upto 07.02.2023
- ii. Tax invoice –document no. SL-01-046 dated 15.05.2022
- iii. Purchase order no. 4504207052 dated 25.04.2022
- iv. Tax invoice –document no. SL-01-044 dated 13.05.2022
- v. Purchase order no. 4504207050 dated 25.04.2022
- vi. Tax invoice –document no. SL-01-064 dated 28.05.2022
- vii. Purchase order no. 4504219544 dated 19.05.2022
- viii. Tax invoice –document no. SL-02-0198 dated 24.05.2022
- ix. Purchase order no. 0015/2022-23 dated 23.05.2022

- x. Tax invoice –document no. SL-02-0951 dated 26.03.2022
- xi. Purchase order no. 00428/2021-22 dated 19.03.2022
- xii. Tax invoice –document no. SL-02-0825 dated 12.01.2022
- xiii. Purchase order no. 00389/2021-22 dated 10.01.2022
- xiv. Copy of step by step guide to produce edible copra and milling copra in their factory, supported by photos.

3.2 Another Personal Hearing was held on 09.11.2022, as there was a change of constitution of members. In this Personal Hearing which was conducted virtually, the AR reiterated the submissions already made and explained the process briefly. He explained that edible copra will be handpicked and separated from milling copra manually and that no preservatives are added. He added that if stored properly in a refrigerated atmosphere it will last for a month. AR further submitted that they are applying 5% tax rate for both edible and milling copra at present.

4.0 The Central Jurisdictional Authority, namely, the Coimbatore Commissionerate, had submitted that there was no pending proceeding against the applicant. They had further submitted their comments on the subject which can be summarized as under:

- The Applicant has dried half cut coconuts in their mill yard on black stone under sun. With respect to copra selected for human consumption, soil and dirt are removed manually and other copra are sent to oil mills for extraction of oil. Hence, the criteria for segregating the type meant for extraction of oil and for human consumption is the presence or absence of soil and dirt.
- Normally, dried edible copra is of higher quality and is processed by heating for removal of water to prevent microbial growth. The product which is food grade shall be white in colour, free from foreign matter, living insects, mould, dead insects, insect fragments and rodent contamination. The product shall have pleasant taste and flavour, free from rancidity and evidence of fermentation. The product may contain food additives permitted by FSSAI regulations.
- Hence, the copra dried under sun in the mill backyard and selected for human consumption on which the subject advance ruling is sought cannot be treated as dry fruit or edible food fit for human consumption and does not merit classification under heading 0801.
- Further, Board while furnishing clarifications regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 45th meeting held on 17th September, 2021 at Lucknow vide Circular No. 163/19/2021-GST dt.06.10.2021, has stated that Copra, classified under heading 1203, attracts GST rate of 5% vide entry at S. No. 66 of Schedule I of 1/2017-Central Taxes (Rate) dated 28.06.2017, irrespective of use. Hence, it is seen that the subject goods, irrespective of its use, has to be considered as Copra and classified under heading 1203 attracting 5% GST.

4.1 The State Jurisdictional authority, namely, the Pollachi rural Assessment circle has not offered any remarks on the questions raised by the applicant in the Advance Ruling Application. It is construed that there are no proceedings pending on the questions raised by the applicant in the Advance Ruling Application.

5.0 We have carefully examined the statement of facts, supporting documents/photographs filed by the Applicant along with application, submissions made at the time of Personal hearing and thereafter the comments of the Central/State Jurisdictional Authority. The Applicant is engaged in the activities of Manufacturing and Trading of Copra, Coconut, and coconut shells. The Applicant is before us seeking ruling on the following question:

Whether the dried coconuts (shelled or peeled) used for human consumption shall be classified under Chapter 8, HSN 0801, on which rate of tax is 'nil'.

5.1 We observe that vide notification no. 2/2017 Central Tax Rate dated the 28th June, 2017, the supply of goods 'Coconuts, fresh or dried, whether or not shelled or peeled' are exempt from GST. The relevant portion of Notification no. 2/2017 Central Tax Rate dated the 28th June, 2017 are as under:

47.	0801	Coconuts, fresh or dried, whether or not shelled or peeled
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5.2 Also, vide notification no. 1/2017 Central Tax Rate dated the 28th June, 2017, the supply of goods 'Copra other than of seed quality' attracts 5% GST (CGST 2.5%+ SGST 2.5%). The relevant portion of Notification no. 1/2017 Central Tax Rate dated the 28th June, 2017 are as under:

66.	1203	Copra other than of seed quality
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5.3 The short point that arises in the instant case is whether the goods in question viz., dried coconuts (copra in trade parlance) meant for human consumption merit classification in Chapter Heading 0801 thereby attracting 'Nil' rate or in Chapter Heading 1203 thereby attracting 5% GST (CGST 2.5%+ SGST 2.5%).

5.4 The step by step guide with photographs given by the Applicant details the production of edible copra and milling copra as under:

- i) First, the coconuts are cut into half and sun dried.
- ii) Then, they are deshelled and further dried on black stone resulting in unsegregated coconut copra commonly known as Sada Copra.
- iii) Later, the selection of edible copra from milling copra is done manually. These selected edible copra are polished and cut for a round, circular cup like finish.

- iv) These round, circular cup shaped copra are hand cleaned to remove any soil or dirt and edges are smoothened to get copra nut for edible consumption.
- v) The edible copra is free from dust, free from any fungus, rubbery and is soft so that it can be consumed easily.
- vi) The rest of the copra which are unshaped, containing dirt and dust are all sent as milling copra for oil extraction.

5.5 From the above, it is evident that Applicant has dried all coconuts (copra in trade/common parlance) in their mill yard on black stone under sun. With respect to copra selected for human consumption, soil and dirt are removed manually and other copra are sent to oil mills for extraction of oil. In short, edible copra is physically round, circular cup like finish which is free of dust and dirt and is soft, while other copra which are irregular shape, dusty are sent as milling copra. A dried coconut for human consumption can also be used for milling purpose, therefore the basis of determination of GST rate on the basis of end use is not appropriate in terms of classification of the product.

5.6. Further, Ministry of Finance vide Circular 163/19/2021-GST dated 6th October 2021 had issued clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 45th meeting held on 17th September, 2021 at Lucknow. The relevant portion of the clarification is as under:

“5. Clarification of definition of Copra:

5.1. Representations have been received seeking clarification regarding the definition of Copra and applicable GST rates.

5.2 As per Explanatory Notes to HS (2017 edition) to heading 1203, Copra is dried flesh of coconut generally used for the extraction of coconut oil. Coconut kernel turns into copra, when it separates from the shell skin, while still being inside the shell. The whole unbroken kernel could be taken out of shell only when it converts to copra. Once taken out of shell, copra could be supplied either whole or broken.

5.3. As per the Explanatory Notes to HS, the heading 0801 covers coconut fresh or dried but excludes Copra. Thus, exemption available to Coconut, fresh or dried, whether or not shelled or peeled, vide entry at S. No. 47 of notification No. 2/2017- Central Tax (Rate) dated 28.6.2017, is not available to Copra. Accordingly, Copra, classified under heading 1203, attracts GST rate of 5% vide entry at S. No. 66 of Schedule I of 1/2017-Central Taxes (Rate) dated 28.06.2017, irrespective of use.

5.7 Hence, as the Circular cited *supra* clearly clarifies that the whole unbroken kernel could be taken out of shell only when it converts to copra. The Applicant takes the copra cuts into half, sun dries and segregates manually based on the round shape of copra, free of dirt/dust and send it as edible copra and the rest of copra which are irregularly shaped, dusty are sent to oil milling units. But as the Circular clearly states, Copra is classified under heading 1203 irrespective of

use. Hence, the impugned goods of the Applicant is only Copra and the same shall be classified under Heading 1203 thereby attracting GST rate of 5% vide entry at Sl.No. 66 of Schedule I of 1/2017-Central Taxes (Rate) dated 28.06.2017.

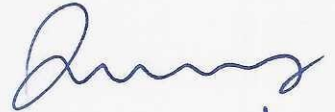
5.8 The Applicant has cited Authority for Advance Ruling, Tamilnadu's Order no. 39/ARA/2019 dated 27.08.2019 as evidence in his favour. But, on perusal of the said Order we find that the order pertains to the withdrawal of application by that applicant and merits of the case were not looked into by the Members of the AAR and hence, it is not relevant to the issue in hand.

5.9 In view of the foregoing, We rule as under:

RULING

The goods supplied by the Applicant are correctly classified under Heading 1203 and the applicable GST rate for the same is 5% GST (CGST 2.5%+ SGST 2.5%).


N. Usha
(Member SGST)


R. Gopalsamy
(Member CGST) 30/11/2022



To
M/s EMS COCOS,
3/1, Pottaiyandipuram, Mulaikadai,
Pottayandiporambu, Sokkanur,
Kinathukadavu,
Coimbatore 642109

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Principal Commissioner of GST & Central Excise,
Coimbatore Commissionerate,
6/7, A.T.D Street, Race course road
Coimbatore 641018.

4. The Assistant Commissioner (ST),
Pollachi rural Assessment circle,
Commercial Taxes Building,
No.8, Palakkad Road,
Pollachi-642001

5. Master File/ Spare-2

