



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Sri. K. Ravi Sankar, Commissioner of State Tax (Member)
2. Sri.B. Lakshmi Narayana, IRS, Joint Commissioner of Central Tax (Member)

AAR No.01/AP/GST/2024 dated:.04.01.2024

1	Name and address of the applicant	M/s. Gayatri Enterprises D:No: 11-58-37, Rajya Lakshmi Complex, One Town, Vijayawada, A.P., -520001
2	GSTIN	37ANUPK6901H1ZL
3	Date of filing of Form GST ARA-01	13.10.2023
4	Personal Hearing	1.12.2023
5	Represented by	K.M.V.L. Pavan Kumar, Manager
6	Jurisdictional Authority – State	Park Road Circle, Vijayawada-I Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	e) Determination of the liability to pay tax on any goods or services or both f) Whether applicant is required to be registered

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Gayatri Enterprises(hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

- 3.1 M/s Gayatri Enterprises (Hereinafter referred to as "applicant") is doing a Commissioning Agent/Broker dealing in brokerage of Agricultural Produce. I facilitate transactions between wholesalers and millers/farmers.
- 3.2 For doing this, I charge a fixed price per bag of brokerage from the parties. Our name will not be mentioned anywhere in the sale or purchase invoice of the transactions. We raise invoice to the parties only for brokerage amount either on monthly/quarterly/half yearly/annually basis. Applicant is having GST Registration number 37ANUPK6901H1ZL.

4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

1. Since we are dealing in brokerage of agricultural produce which is exempt, are we liable for GST Registration?
2. If we are liable for GST Registration, do we need to charge GST?
3. If Yes, What is the rate of GST?

On Verification of basic information of the applicant, it is observed that the applicant is under State jurisdiction i.e, Park Road Circle, Vijayawada-I Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the Central jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Applicant's Interpretation of Law:

- 5.1 We are dealing in brokerage of Agricultural products like Urad, UradDhall, UradGhota, Urad Husk, Moong, MoongDall, Moong Husk, Toor, Jawar and Karamani. These are the only items we are dealing with as of now. It is pertinent to note that, most of these products require processing/milling/dehusking to bring them into a marketable form.
- 5.2 As we are dealing with brokerage of agricultural produce (which require processing), we have obtained GST Registration and we are charging GST at the rate of 18%. Please let us know, is our interpretation correct? We are getting a lot of resistance from the parties all over India, that GST is not applicable for us. In this regard, We thought of seeking the help of Advance Ruling Authority to clarify

6. Personal Hearing:

The proceedings of Personal Hearing were conducted on 01.12.2023, for which the authorized representative, K.M.V.L. Pavan Kumar, Manager, attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application in light of the facts and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for Advance Ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

The applicant submits that they are dealing in brokerage of Agricultural products like Urad, UradDhall, UradGhota, Urad Husk, Moong, MoongDall, Moong Husk, Toor, Jawar and Karamani. These are the only items they are dealing with as of now. Further the applicant submitted that most of these products require processing/milling/dehusking to bring them into a marketable form. The applicant further submits that as they are dealing with brokerage of agricultural produce (which require processing), they have obtained GST Registration and are charging GST at the rate of 18%.

The issue at hand is to determine whether the applicant needs to obtain GST registration and if so, what would be the tax rate applicable for the business dealt by him.

At this juncture, attention of the applicant is here by invited to the following GST Notifications:

As per GST notification No. 11/2017-Central Tax (Rate), S.No. 24 Sl.No :24 ; and notification No. 12/2017-Central Tax (Rate), S.No. 54, dated 28th June 2017

Heading 9986 : The following services only have NIL GST:

(i) Support services to agriculture, forestry, fishing, animal husbandry. Explanation. – "Support services to agriculture, forestry, fishing, animal husbandry" mean –

(i) 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—

(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(b) supply of farm labour;

(c) processes carried out at an agricultural farm including tending, pruning, cutting, 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;

(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(e) loading, unloading, packing, storage or warehousing of agricultural produce;

(f) agricultural extension services;

(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

(ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.

(iii) Carrying out an intermediate production process as job work in relation 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.

Agricultural Produce: *Agricultural produce in the notification has been defined to mean "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"*

In the instant case the applicant is involved in processing of the agricultural produce such as de-husking or splitting of the pulses to make the product marketable. Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of de-husking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) **are also not agricultural produce.** However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

In view of the above it is clarified that processed pulses **fall outside the definition of agricultural produce given in notification No. 11/2017-CT(Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and SGST Acts and therefore the exemption from GST is not available to them.**

The applicant has submitted that they are processing (dehusking/milling) the products to make them marketable. On examination of the documents and bills submitted by the applicant along with the application the tax payer is collecting GST on the brokerage charges.

Commission and brokerage :

Commission agent under GST Section 2 sub-section (5) of the CGST Act, 2017: -
As per Section 2 sub-section (5) of the CGST Act 2017, "agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another). "Commission typically refers to income earned by a person for arranging a transaction between two parties and earning a percentage of the sales proceeds. The commission earned in such a scenario is taxable under GST as a service at 18%," **GST registration applies to all commission and brokerage income irrespective of the turnover limits of the taxpayer.** "Persons who make taxable supplies of goods or services or both on behalf of other taxable persons whether as an agent or not are required to take registration regardless of turnover.

In the instant case the applicant is involved in the processing of the products and also facilitates the transactions between buyer and seller and collects brokerage charges. Therefore the applicant is required to obtain registration as well has to pay CGST @9% and SGST @9% as per notification 11/2017-central Tax (Rate) dated 28.06.2017 given below, irrespective of whether the goods involved in the transaction are exempted or taxable under GST.

As per Notification No. 11/2017-Central Tax (Rate) ,28/06/2017

Sl.No	Chapter ,Section, or heading	Description of service	Rate (percentage)	condition
5	Heading 9961	Services in wholesale trade . Explanation -This service does not include sale or purchase of goods but includes: – Services of commission agents, commodity brokers, and auctioneers and all other traders who negotiate whole sale commercial transactions between buyers and sellers, for a fee or commission' – Services of electronic whole sale agents and brokers, – Services of whole sale auctioning houses.	9	-

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Since we are dealing in brokerage of agricultural produce which is exempt, are we liable for GST Registration?

Answer : Yes

Question: If we are liable for GST Registration, do we need to charge GST?

Answer : Yes.

Question: If yes, What is the rate of GST?

Answer : As per notification 11/2017-central Tax (Rate) dated 28.06.2017, the transactions fall under sl.no :5 ,Heading 9961 and taxable at CGST - 9% and SGST-9%.

**Sd/- K.Ravi Sankar
Member**

**Sd/- B. Lakshmi Narayana
Member**

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


Deputy Commissioner (ST)
Registrar
Authority for Advance Ruling
O/o. Chief Commissioner (State Tax)
Andhra Pradesh, Vijayawada.

To

~~M/s~~ Gayatri Enterprises, D:No: 11-58-37, Rajya Lakshmi Complex, One Town, Vijayawada, A.P., -520001 (**By Registered Post**)

Copy to

1. The Assistant Commissioner of State Tax, Park Road Circle, Vijayawada-IDivision (**By Registered Post**)
2. The Superintendent, Central Tax, CGST Indrakeeladri- Range, Amaravathi Division. (**By Registered Post**)

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. (**By Registered Post**)

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