

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड(माल और सेवा कर)
**BEFORE THE AUTHORITY FOR ADVANCE RULINGS FOR THE STATE
OF UTTARAKHAND
(Goods and Services Tax)**

Present:

श्री अनुराग मिश्रा (सदस्य)

Shri Anurag Mishra (Member)

श्री विवेकानंद मौर्य (सदस्य)

Shri Vivekanand Maurya (Member)

The 22nd day of August, 2023

अग्रिम विनिर्णय संख्या. 03/2023-24

Ruling No: 03/2023-24

in

आवेदन संख्या . 03/2023-24

Application No: 03/2023-24

1	आवेदक Applicant	M/s Stellar Cold Chain Inc., Narayan Nagar, Industrial Estate, C/o Jindal Vegetables Products Limited, Bazpur Road, Kashipur, Udham Singh Nagar, Uttarakhand- 244713.
2	अधिकारिता अधिकारी Jurisdictional Officer	-----
3	आवेदक की ओर से उपस्थित Present for the Applicant	Sh. Apurva Jindal, Partner of the Firm
4	अधिकारिता अधिकारी की ओर से उपस्थित Present for the Jurisdictional Officer	None
5	Concerned Officer	Sh. Deepak Brijwal, Deputy Commissioner
6	आवेदन प्राप्ति की तिथि Date of receipt of application	08.06.2023
7	सुनवाई की तिथि Date of Personal Hearing	26.07.2023

नोट: इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवाकर अधिनियम 2017 की धारा-99 के अन्तर्गत गठित अग्रिम विनिर्णय अपीलप्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

Note: An appeal against this ruling lies before the appellate authority for advance ruling under Section 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, constituted under Section 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.



**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX
UTTARAKHAND**

PROCEEDINGS

This is an application under Sub-Section (1) of Section 97 of the Central Goods & Service Tax Act, 2017 and Uttarakhand State Goods & Service Tax Act, 2017 (hereinafter referred to as CGST/SGST Act) and the rules made there under filed by M/s Stellar Cold Chain Inc., Narayan Nagar, Industrial Estate, C/o Jindal Vegetables Products Limited, Bazpur Road, Kashipur, Udham Singh Nagar, Uttarakhand- 244713 (herein after referred to as the "applicant") and registered with GSTIN 05ACMFS6830N1ZJ under the CGST Act, 2017 read with the provisions of the UKGST Act, 2017.

2. At the outset, we would like to state that the provisions of both the CGST Act and the SGST Act are the same except for certain provisions; therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the SGST Act.

3. The Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

4. As per the said sub-section (2) of Section 97 of the Act advance ruling can be sought by an applicant in respect of:

- (a) Classification of any goods or services or both
- (b) Applicability of a notification issued under the provisions of this Act,
- (c) Determination of time and value of supply of goods or services or both,
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid
- (e) Determination of the liability to pay tax on any goods or services or both
- (f) Whether the applicant is required to be registered
- (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term.

4.2 In the present case applicant has sought advance ruling on the determination of the liability to pay tax on services, therefore, in terms of said Section 97(2) (b) of CGST/SGST Act, 2017, the present application is hereby admitted.

BRIEF FACTS OF THE CASE

5. In the application dated 08.06.2023, the applicant submitted that:

- a.** They i.e. M/s Stellar Cold Chain Inc., is a Partnership firm having registered place of business at Narayan Nagar, Industrial Estate, C/o Jindal Vegetable Products Limited, Bazpur Road, Kashipur – 244713 (Udham Singh Nagar) Uttarakhand, is in the Cold Storage business. They purchases raw green peas from the market and after processing the same, sale the said Frozen Green peas in the market. They also provide refrigeration and storage facilities in their cold storage to other companies also and charge storage and or refrigeration charges from such entities.
- b.** They also process the green peas of other companies and charge processing charges from them with 5% GST on it. Companies also store green peas in their cold storage and they charge Storage Charges with GST @ 18% on it for such activity.
- c.** Now, the companies has raised the query that the storage charges come under NIL GST Tariff through the Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022 issued by the GST Department under the heading of “Services by way of Storage or Warehousing of cereals, pulses, fruits and vegetables, as green peas comes under the vegetables and therefore, the same is covered under the aforesaid notification.

QUESTION

In view of the above facts, ‘*the applicant*’ is seeking advance ruling as to;

1. Whether the Storage Charges charged from the companies for storage of frozen green peas in the cold storage is taxable under GST Act?
2. Whether the Storage Charges comes under NIL GST Tariff under “Services by way of Storage or Warehousing of cereals, pulses, fruits and vegetables” vide Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022?
3. Whether the Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022 issued by the GST Department is applicable on the applicant case or not?

APPLICANT SUBMISSION

- 6.** From the record submitted by the applicant we find that applicant is registered in Uttarakhand with GSTIN bearing No. **05ACMFS6830N1ZJ**. Before proceeding in the present case, we have to first go through the submissions made by the applicant which are as under:
- i. They are a Partnership firm having registered place of business at Narayan Nagar, Industrial Estate, C/o Jindal Vegetable Products Limited, Bazpur Road, Kashipur – 244713 (Udham Singh Nagar) Uttarakhand, engaged in the business of Cold Storage. They purchases raw green peas from the market and after processing the same, sale the said Frozen Green peas in the market.
 - ii. They also process the green peas of other companies and charge processing charges from them with 5% GST on it.



- iii. They also provide refrigeration and storage facilities in their cold storage to other firms/ entities and charge storage and or refrigeration charges from such firms/entities with GST @ 18% on it.
- iv. Now, the firms/ entities using their storage facilities has raised the query that the storage charges come under NIL GST Tariff through the Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022 issued by the GST Department under the heading of "Services by way of Storage or Warehousing of cereals, pulses, fruits and vegetables, as green peas comes under the vegetables and therefore, the same is covered under the aforesaid notification.

PERSONAL HEARING

Accordingly opportunity of personal hearing was granted to the applicant on 26.07.2023. Sh. Apurva Jindal, Partner of the Firm, on behalf of the applicant appeared for personal hearing on the said date and re-iterated the submission already made in their application. During hearing he was asked to clarify the type of green Peas stored by the applicant, whereupon he submitted that "Frozen Green Peas" are stored by them. Sh. Deepak Brijwal, Deputy Commissioner, Concerned Officer from the State Authority was also present during the hearing proceedings. He presented the facts and requested the authority to decide the case on merits. Further, with reference to a query raised during hearing, the applicant vide letter dated 26.07.2023 (sent through email), clarified that they store Frozen Green Peas.

DISCUSSION AND FINDINGS

7. In the present case we are not deciding any wider question but restricting our conclusion to the facts and circumstances which were filed by the applicant for our consideration. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by applicant and his authorized representatives during the hearing. We have also considered the issue involved on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law. Now we proceed by taking up the issue.

8. We have carefully considered all the submissions made by the Applicant. In the instant case the applicant is engaged in the business of Cold Storage after processing of raw green peas purchased from the market, they store the same for sale in the market. The applicant also undertake same process for other companies and charge processing charges from them with 5% GST on it. However, they also provide refrigeration and storage facilities to other firms/ entities and charge storage and /or refrigeration charges from such firms/ entities under GST 18% on it. The applicant has now sought advance ruling in the back drop of the Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022 wherein "Services by way of Storage or Warehousing of cereals, pulses, fruits and vegetables" have wholly been exempted from tax.

In the instant case the issue before us is whether, service of storage of processed green peas (in frozen state), is covered under the ambit of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022. For better perspective, the relevant portion of the said notification is reproduced as under:

"G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1				
2				
3				
24B	Heading 9967 or Heading 9985	"Services by way of storage or warehousing of cereals, pulses, fruits and vegetables"	Nil	Nil

We find that as amended by Notification No. 4/2022-CT dated 13.07.2022 in Sl. No. 24B of the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 issued under sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017, the intra-State supply of services of description as specified in column (3) of the Table have been exempted from payment of applicable tax, accordingly by virtue of the provisions of the said notification the "Services by way of storage or warehousing of cereals, pulses, fruits and vegetables" falling under service tariff code 9967 or 9985 have been subjected to NIL rate of tax.

Upon closer look of the usage of the words used in the notification it is revealed that the word "vegetables" have been used, and in the instant case, which is part of Agriculture Product but as submitted by the applicant they are storing **processed and frozen green** peas. It is seen that as per the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017; agricultural produce has been defined as under:

"(d) "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;"



We find that as per the above definition, agricultural produce is the produce out of cultivation of plants 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 this regard, we are of the opinion that various processes involved to change the Raw Green Peas into Frozen Green Peas, changes the basic essence and character of the product and after processing, it does not fall under the agricultural product or vegetable. We hold that the spirit of the law is to give exemption for storage of Green Peas in the form as defined at Para 2(d) of the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 only, and not for Processed Frozen Green Peas.

Hence, we hold that Notification No. 12/2017-Central Tax(Rate) dated 28.06.2017 as amended by Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022, does not exempt the services of storage of processed frozen green peas and applicable GST has to be paid by the applicant.

9. In view of the discussions held above, we rule as under:

RULING

1. Whether the Storage Charges charged from the companies for storage of frozen green peas in the cold storage is taxable under GST Act?

Answer- Yes.

2. Whether the Storage Charges comes under NIL GST Tariff under "Services by way of Storage or Warehousing of cereals, pulses, fruits and vegetables" vide Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022?

Answer- Yes, as per Notification No. 12/2017-Central Tax(Rate) dated 28.06.2017 "Services by way of Storage or Warehousing of cereals, pulses, fruits and vegetables" have been subjected to NIL rate of tax.

3. Whether the Notification No. 04/2022-Central Tax (Rate) dated 13.07.2022 issued by the GST Department is applicable on the applicant case or not?

Answer- No.


ANURAG MISHRA
(MEMBER)


VIVEKANAND MAURYA
(MEMBER)

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX: UTTARAKHAND
OFFICE OF THE COMMISSIONER, SGST, UTTARAKHAND
LADPUR RING ROAD, UPPER NATHANWALA, DEHRADUN**

F. No.: 03/S.Tax-UKD/GST/Sec-97/2023-24/DDN/ 3246 Date: 22.08.2023

Copy to:

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for information please.
2. The Commissioner, SGST, Commissionerate, Uttarakhand for information and necessary action please.
3. The Commissioner, CGST, Commissionerate, Dehradun for information and necessary action please.
4. The Commissioner, CGST, Audit Commissionerate, Dehradun for information please.
5. The Assistant Commissioner, CGST, Division- KASHIPUR, for information and necessary action.
6. The Assistant Commissioner, SGST, Sector – 2, Kashipur, Rudrapur for information and necessary action.
7. The Concerned Officer, CGST, Dehradun.
8. The Concerned Officer, SGST, Dehradun.
9. The Appellate Authority of Advance Ruling, Uttarakhand for information please.
10. Guard File.

