



सत्यमेव जयते

BEFORE THE AUTHORITY FOR ADVANCE RULINGS
for the State of Andhra Pradesh (Goods and Service Tax)
(5th Floor, O/o Chief Commissioner of Commercial Taxes, D.No:5-56, Block-B, R.K
Spring Valley Apartments, Edupugallu, Vijayawada-521151.)

Present:

Sri. J.V.M Sarma (Member)

Sri.Amaresh Kumar (Member)

The 28th day of March 2018

Order No. AAR/AP/02(GST)/2018

In

Application No.AAR/02(GST)/2018

1	Applicant	M/s S S S V K COLD STORAGE PVT.LTD (GSTIN:37AAMCS5026K1ZY) D.No.83/1, 83/2A, Gajula Rega Main road, Gajula Rega- 535001
2	Jurisdictional Officer	Assistant Commissioner of State Tax, Vizianagaram East Circle
3	Present for the Applicant	Ashish, C.A, Vizianagaram
4	Present for the Jurisdictional Officer	Not attended
5	Date of Personal hearing	19.02.2018

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, within a period of 30 days from the date of service of this order.

M/s SSSVK COLD STORAGE PRIVATE LIMITED, (hereinafter also referred as an applicant), having GSTIN: 37AAMCS5026K1ZY are engaged in cold storage operations. The applicant extends his services by storing various processed and unprocessed agricultural produce pertains to both the farmers and traders.

2. The applicant filed an application for seeking advance ruling, on Classification of goods and/or services or both, applicability of a notification issued under the provisions of the Act, Determination of the liability to pay tax on any goods or services or both under the Section 104 of CGST Act'2017 and Section 104 of APGST Act'2017. The application was received by this authority on 17th January 2018, along with payment of Rs.10000/- vide CPIN No: 18013700035704.

The gist of questions on which advance ruling sought by the applicant is as follows:

- a) The applicant used to provide space to the farmers as well as traders for storage of agriculture produce such as Mirchi(Chillies), whole Pulses, Apples, Potato, Raw cashew nuts , Oil seeds, maize (Corn from maize), Tamarind, Millets, Cattle feed etc., in his cold storage. In this case the applicant requires advance ruling on
 - "Whether the storage of Agriculture produce falls under Service Account Code (SAC) 998619 or 996721 or some other SAC
 - and rate of tax applicable for such storage of such produces if any,
- b) Whether the services falls under SAC 998619 the exemption under notification no 12/2017 CTR dated 28.06.2017 under entry no 54(e) is applicable to both farmers and traders.
- c) If benefit of Notification No 12/2017-CTR dated 28.06.2017 under Entry No 54(e) is applicable exclusively for farmers, then what are documents required to be taken by cold storage operator for availing exemption benefit.

Copy of the said application was forwarded to the Jurisdictional Tax Officer.

3. A personal hearing was fixed on 19.02.2018, wherein Sri. Ashish Kumar Agrawal (FCA) and authorized representative of the applicant attended. In their submissions the authorized representative has submitted the following points for consideration

1. That when a service can be classified under two different heads, the head which is more specific and near to actual service rather than the general entry is to be selected.
2. The service under SAC 998619 is more opt for services offered by the applicant i.e., storing of agricultural produce under entry number 54(e) of Notification No. 12/2017 (CGST – Rate), dated 28th June 2017, and contended entry under SAC 996721 is more generic in nature.
3. Further relied on circular 16/16/2017-GST, dated 15th November 2017, issued by TRU of Department of Revenue.
4. For question No. 2(b), he submitted the entry doesn't have any specific reference to specific class of persons but to specific class of services, accordingly contended the benefit of the exemption should be extended for both to the farmers and to the traders. Further elaborated the services by traders are also as part of services for agriculture.

5. For question No. c, he mentioned no specifications of maintaining of records in law. He requested to inform required documents to avail the exemption benefit.

4.1 We have gone through the application filed, the written and oral submission given by the applicant. The relevant extracts of the two entries under consideration are as under:

Entry 54 Heading 9986 ::

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.***

Entry 55 Heading 9986 :: 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.**

Heading 9967 (Supporting services in transport)

4.2 On the perusal of above entries, we find that heading 9967 deals with support services in transportation. Whereas, heading 9986 deals with support services to agriculture, forestry, fishing, animal husbandry. Accordingly, we do not have any hesitation to rule out the heading 9967. As seen from the plain reading of the entry 54 and 55, it is evident that the services provided in activity of cultivation, from the initial stages up to the marketable stage, subject to conditions was 'nil rated. Among different support services for the cultivation or the agricultural operations, the storage of and warehousing is also mentioned. But the important issue to be noted that the 'nil' rate is applicable subject to the condition that the support service is extended to the 'agricultural produce' only. The term 'agricultural

produce' as per Circular No. 16/16/2017-GST, F. No. 354/173/2017-TRU, issued by Government of India dt 15th Nov. 2017 means

"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"

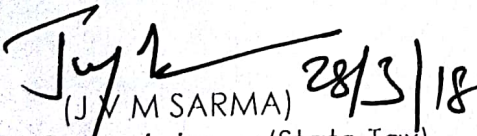
4.3 The applicant has sought for the rates of taxes for the provision of services, in specific commodities. In this regard, we find that as long as the commodities fall under the purview and ambit of ' agricultural produce' as referred in the said notification read with the explanation in the circular referred attracts 'nil' rate of tax. With regard to the applicability of the exemption under Notification No 12/2017(CGST-Rate), we find that the notification is service specific and not person specific. Hence the entry no 54(e) is equally applicable for agricultural produce of both the farmer as well as the trader.

4.4 We find that applicant has also sought ruling in respect of documents to be maintained for claiming such exemption. We are of the view that it does not fall under the purview of advance ruling authority as per the provisions of the CGST/AP GST Act' 2017.

Based on above discussions and findings we give the following ruling

RULING

- 5.1** The storage and warehousing of Agriculture produce falls under Service Account Code (SAC) 9986 and not under 9967.
- 5.2** The exemption under notification no 12/2017 Central Tax (Rate) dated 28.06.2017 under entry no 54(e) is applicable for agricultural produce of both farmers and traders.


(J V M SARMA) 28/3/18
Joint Commissioner (State Tax)
Member


(AMARESH KUMAR)
Joint Commissioner (Central Tax)
Member