

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560009**

Advance Ruling No. KAR ADRG 29/2019

Date : 12-09-2019

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax, . . . Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes . . . Member (State Tax)

1.	Name and address of the applicant	M/s S.R.K. Ladders, Industrial area, Plot #21, Mukrumpady, Puttur, Karnataka-574210
2.	GSTIN or User ID	29AFXPA8329J1ZR
3.	Date of filing of Form GST ARA-01	22.11.2018
4.	Represented by	Sri. Ananthnarayan B, GSTP
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, Mangalore Commissionerate.
6.	Jurisdictional Authority – State	LGSTO 265 - Puttur
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act vide CIN HDFC18102900443708 dated 27-10-2018 and Rs.5,000/- under KGST Act vide CIN HDFC18062900355921 dated 27-06-2018

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS & SERVICES TAX ACT, 2017 AND UNDER 98(4) OF THE KARNATAKA GOODS & SERVICES TAX ACT, 2017

M/s S.R.K Ladders, Industrial area, Plot # 21, Mukrumpady, Puttur, Karnataka - 574210 (called as the 'applicant' hereinafter), having GSTIN number 29AFXPA8329J1ZR, have filed an application for Advance Ruling under Section 97 of CGST Act 2017 & KGST Act 2017 read with Rule 104 of



CGST Rules 2017 & KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a Proprietary concern and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

Classification of the goods manufactured by the dealer "Agriculture Tree Climbing Apparatus-Unipole Manually operated" - Principal raw material being Aluminium.

3. The applicant submitted the following facts relevant to their activity:

3.1 The applicant is engaged in manufacture of Aluminum Tree Climbing Apparatus such as Unipole Aluminum ladders and claims that the said equipment/instrument is used in agricultural activities like tree climbing for spraying pesticide, harvesting the crops of areca, pepper and coconut etc., and also used in cultivating, protecting and harvesting activities.

3.2 The applicant relying on the Honorable Supreme Court judgment in the case of M/S U.P State Agro Industrial Corp. Ltd., V/s Kisan Upbhokta Parishad & Others (SC), where in it is stated that implements are usually regarded as "tools" used by human beings with their hands, legs or driven by animal power, claims that their equipment be treated as agricultural implements.

3.3 The applicant has also referred the judgment of the Hon'ble High court of Karnataka in the case of M/s Kollamogru Harihara C.A. Bank Ltd Vs State of Karnataka, (STA 162/2013 Dt 02-03-2015) where in it has been held that the product "Agricultural Tree Climbing apparatus-Unipole Manually operated" is an Agricultural implement. The same point is upheld by Hon'ble Apex court in the case of Spencer (Asia) Ltd., Vs State of Haryana (42 STC page 433) wherein it is held that the product is a kind of commonly used agricultural implement, regarded in common parlance according to the sense of agriculturist, ordinary traders and merchants as agricultural implements.

3.4 The applicant further submitted that for plucking of crops like arecanut and pepper, skilled labour is required to climb long trees as it is difficult for the unskilled labour to climb and harvest such a crop. The Aluminium tree climbing apparatus/equipment is an implement

consisting of an aluminium pole with grips to keep legs fixed near the tree and can be used by unskilled labour also.

3.5 In view of the above, the applicant submits their interpretation of the law and claims that their apparatus/equipment is operated manually by the human beings by using hands and legs and hence satisfies the tests to qualify as "Agricultural Implement manually operated or animal driven i.e. Hand Tools" and hence merits classification under heading 8201 of Customs Tariff Act 1975, attracting Nil rate of GST.

PERSONAL HEARING / PROCEEDINGS HELD ON 31.12.2018.

4. Sri Ananthanarayan B, GSTP and duly authorised representative of the applicant appeared for personal hearing proceedings held on 31.12.2018 & reiterated the facts narrated in their application.

5. FINDINGS & DISCUSSION:

5.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Ananthanarayan B, GSTP and authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

5.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 KGST Act.

5.3 The Applicant is engaged in manufacture of Agricultural climbing apparatus such as Unipole & Bipole - Ladders, Trollies and Aluminum ladders. The applicant seeks advance ruling on the classification of one of their product "*Agriculture Tree Climbing Apparatus-Unipole Manually operated*" which is manufactured out of principal raw material Aluminium and the rate of GST applicable thereon.

5.4 The main contention of the applicant is that their product qualifies to be an agricultural implement and hence merits classification under tariff heading 8201 attracting "Nil" rate of GST, on the basis of the Judgments of the Hon'ble Supreme Court and Hon'ble High Court of Karnataka, mentioned at paras 3.2 and 3.3 supra.

5.6 In view of the above the issue before us to decide, so as to give the ruling to the question sought by the applicant, is whether the product of the applicant is an agricultural implement or not. Therefore we proceed to examine the issue so as to arrive at the appropriate classification of the said product of the applicant.

5.7 It is an admitted fact that the said product is made, predominantly, out of raw material "Aluminium" and hence the probable classifications would be either based on the usage or based on the raw material i.e. articles of aluminium.

5.4 Chapter 82 of the Customs Tariff covers "tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal". Tariff Heading 8201 covers "*Agricultural implements manually operated or animal driven i.e. Hand Tools*" and Tariff Heading 8201 90 00 covers "*Other hand tools of a kind used in agriculture, horticulture or forestry*"

5.6 The goods in question is a ladder with hooks attached to it so that the same gets embedded in the ground and prevent it from sliding. It is made of a pole of aluminium with rungs of aluminium attached to it. The contention of the applicant is that since it has the hooks, it cannot be used for any general purpose but it can only be used by farmers for climbing areca trees, for spraying insecticides and for picking pepper from pepper vines (harvesting) climbing the supporting trees. Further the market for the said product is seasonal and confined to the months of June to December. Therefore it has usage only in relation to agriculture and hence is an agricultural implement. The applicant also submitted photographs of the said goods when in use.

5.7 The Hon'ble High court of Karnataka in the case of M/s Kollamogru Harihara C.A. Bank Ltd Vs State of Karnataka, (STA 162/2013 dated 02-03-2015) held that the product "*Agricultural Tree Climbing apparatus-Unipole Manually operated*" is an Agricultural implement. The product in the instant case also is one and the same and hence the said judgement of High Court of Karnataka is squarely applicable to the instant case. Further Hon'ble Supreme Court in the case of M/S U.P State Agro Industrial Corp. Ltd., V/s Kisan Upbhokta Parishad & Others (SC), stated that *in common parlance implements are usually regarded as tools used by human beings with their hands (and sometimes with their legs), or driven by animal power.*

5.8 In the instant case the goods in question "*Agricultural Tree Climbing apparatus-Unipole Manually operated*" is an agricultural implement and

hence in common parlance it can be regarded as a tool, which is used by both hands and legs by human beings in agriculture specifically in relation to harvesting areca and pepper. Therefore the product in question merits classification as an "agricultural implement / tool used in agriculture" under Tariff Heading 8201 9000. Further the Jurisdiction Assistant Commissioner, LGSTO-265, Puttur, Karnataka has also furnished a report vide their letter dated 27.11.2018 confirming the usage of the said product only in agriculture.

5.9 Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 vide Entry No.137 exempts the goods falling under Tariff Heading 8201, which reads as under:

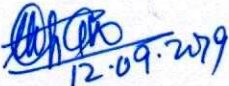
137.	8201	Agricultural implements manually operated or animal driven i.e. Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry.
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In the instant case the product in question falls under manually operated agricultural implement and hence qualify to be a tool of a kind used in agriculture. Therefore the aforesaid exemption is squarely applicable to the instant case.

6. In view of the foregoing, we pass the following

RULING

"Agriculture Tree Climbing Apparatus-Unipole Manually operated Aluminium ladder" is covered under Tariff Heading 8201 and is covered under Entry No.137 of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 and hence is exempted.


12.09.2019
(Harish Dharnia)
Member


(Dr. Ravi Prasad M.P.)
Member

Place : Bengaluru,

Date : 12-09-2019

To,

The Applicant

