

**THE AUTHORITY ON ADVANCE RULINGS  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 72/2019**

**Date : 23-09-2019**

Present:

1. Sri. Harish Dharnia,  
Addl. 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 Sri Balaji Rice Mill, Door No. 125/F, Ward No.5, Bengaluru Road, Bellary -583 101.
2.	GSTIN or User ID	29AAQFS4802E1Z0
3.	Date of filing of Form GST ARA-01	19.01.2019
4.	Represented by	Sri. Sanjay M Dhariwal Sri. G.B. Srikanth Acharya
5.	Jurisdictional Authority - Centre	The Commissioner of Central Tax, Belgaum Commissionerate, Belgaum. (Bellary -B Range)
6.	Jurisdictional Authority - State	LGSTO 490 - BELLARY
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act 2017 & Rs 5,000/- under KGST Act 2017 vide CIN HDFC19012900175309 dated 16 <sup>th</sup> January 2019

**ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017**

1. M/s. Sri Balaji Rice Mill, Door No. 125/F, Ward No.5, Bengaluru Road, Ballari (Bellary), Karnataka - 583 101, having GSTIN number 29AAQFS4802E1Z0, 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 Company, registered under the Goods and Services Act, 2017, involved in the manufacturer of Rice and its by-products (Broken rice & Rice bran). Thus the Applicant has sought advance ruling on classification of goods and services in respect of the following questions:

- a. As a manufacturer of rice, can the applicant sell Rice under Registered Brand with 5% GST and also in Unregistered Brand with affidavit & disclaimer under GST exempted category?
- b. Is it compulsory to de-register the registered brand to sell goods in unregistered brand with nil rate of tax under GST?
- c. Whether sale of rice is exempt, if applicant forgo the actionable claim on brand name after de-registration?

**BRIEF FACTS OF THE CASE:**

3. The Applicant is a manufacturer of Rice & its by-products (Broken Rice & Rice bran) and selling the same under the registered brand name '**KITCHEN KING**' till 31st June 2017. Thereafter from 1<sup>st</sup> July, 2017 to 9<sup>th</sup> October, 2017, applicant sold rice both under registered brand '**KITCHEN KING**' by charging GST @5% and also sold under unregistered brand '**SBRM's K KING**' with no GST. Further from 10<sup>th</sup> October, 2017 onwards applicant is selling rice only in Unregistered brand '**SBRM's K KING**' with no GST by filing an affidavit to the jurisdictional Commissioner of Central Tax or State Tax and printing disclaimer on containers, to effect that the applicant is voluntarily foregoing actionable claim & enforceable right on the unregistered brand as required in Notification No.27/2017-Central Tax dated 22<sup>nd</sup> September, 2017. However, the Applicant not yet de-registered the Registered Brand.

4. The applicant submits that as per the notification 1/2017 - Central Tax (Rate) dated 28.06.2017, rice put up in unit container and bearing a registered brand name liable for GST @5% and Rice [other than those put up in unit container and bearing a registered brand name] exempt from GST as per the notification No.2/2017 Central Tax (Rate) dated 28.06.2017. Further the notification No. 1/2017 Central Tax (Rate) was amended vide notification No.27/2017 Central Tax (rate) Dated 22/09/2017, which reads as under:

(A) in Schedule I-2.5%,-

(i) against serial numbers 11, 13, 25, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 and 59, in column (3), for the words "put up in unit container and bearing a registered brand name", the words, brackets and letters "put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or any enforceable right in respect of such brand name has been voluntarily



foregone, subject to the conditions as in the ANNEXURE]”, shall be substituted;

Further, the notification No. 2/2017 Central Tax (Rate) dated 28/06/2017 was amended vide notification No.28/2017 Central Tax (Rate) Dated 22/09/2017 which states as under:

(iii) against serial numbers 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77 and 78, in column (3), for the words “other than those put up in unit container and bearing a registered brand name”, the words, brackets and letters “other than those put up in unit container and,-

(a) bearing a registered brand name; or

(b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]”, shall be substituted;

5. The applicant submitted that Perusal to the above amendments it is understood that, sale of goods under unregistered brand name which were exempted before amendment, are made liable for tax after. However, exemption can be availed in case of unregistered brand name, if person holding such registered or unregistered brand name can forego the actionable claim or enforceable right in respect of such brand by filing an affidavit to the jurisdictional Commissioner of Central tax or State tax and prints a disclaimer about the same on the unit container, in indelible ink, both in English & local language.

6. The applicant further submitted that 5% GST applicable to those who put up the rice in unit container bearing a registered brand name; or bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE] and other than those who put up the rice in unit container bearing a registered brand name; or bearing a brand name on which an actionable claim or enforceable right in a court of law is available and also forgo voluntarily actionable claim or enforceable right in respect of such brand name by filing affidavit and printing disclaimer to that effect on unit container are exempted from GST.

7. With regard to the de-registration of the Registered brand name and to sell goods in Unregistered brand name with nil GST applicant submitted that, since it has nowhere been specified under GST to specifically de-register the registered brand to continue to sell rice under unregistered brand with 'Nil' rate of tax, the applicant is selling the rice both under registered brand and unregistered brand.





8. Further, with regard to the third question applicant submitted that rice put up in a unit container bearing deregistered brand name and printing the disclaimer on the unit container regarding the voluntarily forgoing the actionable claim or enforceable right of that brand and also filing the affidavit to the jurisdictional Commissioner of the Central Tax or State Tax to that effect then nil rate of tax applicable on the sale of such rice.

**PERSONAL HEARING: / PROCEEDINGS HELD ON 28.02.2019**

9. Sri. Sanjay M Dhariwal, Chartered Accountant and authorized representative of the applicant appeared for personal hearing proceedings held on 28.02.2019 and reiterated the facts narrated in their application.

10. **FINDINGS & DISCUSSION**

10.1 We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri. Sudhindranath, Advocate and authorised representative of the applicant, during the personal hearing. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

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.

10.2. The Applicant seeks advance ruling in respect of the questions mentioned at para 2 supra. The nature of business activity of the applicant has been examined and observed that the applicant is involved in the manufacture of Rice & its by-products (Broken Rice & Rice bran) and selling the same under the registered brand name '**KITCHEN KING**' till 30<sup>th</sup> June 2017(till the introduction of GST) and after introduction of GST from 1<sup>st</sup> July, 2017 applicant selling rice both under registered brand '**KITCHEN KING**' by charging GST @5% and unregistered brand '**SBRM's K KING**' with no GST up to 9<sup>th</sup> October 2017. Consequent to issue of Notification No.27/2017 -Central Tax(Rate) dated 22<sup>nd</sup> September, 2017 which brought the amendment to the notification No.1/2017 Central Tax(Rate) dated 28<sup>th</sup> June, 2017, the applicant is selling rice only in Unregistered brand '**SBRM's K KING**' with no GST from 10<sup>th</sup> October, 2017 onwards by printing disclaimer on containers, to the effect that the applicant has voluntarily foregone actionable claim & enforceable right on the unregistered brand and also filing the affidavit to the jurisdictional Commissioner of Central tax or State tax regarding the forgoing of actionable claim & enforceable right on the unregistered brand .



10.3. The Notification No.27/2017 -Central Tax(Rate) dated 22<sup>nd</sup> September, 2017 which brought the amendment to the notification No.1/2017 Central Tax(Rate) dated 28<sup>th</sup>June, 2017, states that those who are selling the rice in the unit container, bearing a registered brand name or bearing a brand name on which an actionable claim or enforceable right in a court of law is available, is liable to GST @5%. Further, Notification No. 28/2017-Central Tax(Rate) dated 22<sup>nd</sup> September, 2017 brought the amendment to the notification 2/2017 Central Tax(Rate) dated 28<sup>th</sup>June, 2017 states that rice put up in unit container bearing a brand name, where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, is exempted from GST, subject to the conditions that the person undertaking packing of such goods in unit containers which bears a brand name shall file an affidavit to that effect with the jurisdictional Commissioner of Central tax that he is voluntarily foregoing his actionable claim or enforceable right on such brand name in terms of Explanation (ii)(a) of the Notification No.28/2017 -Central Tax(Rate) dated 22<sup>nd</sup> September, 2017; and also the person undertaking packing of such goods in unit containers which bear a brand name shall, on each such unit containers, clearly print in indelible ink, both in English and the local language, that in respect of the brand name, in terms of Explanation (ii)(a) of the Notification No.28/2017-Central Tax(Rate) dated 22<sup>nd</sup> September, 2017, printed on the unit containers he has foregone his actionable claim or enforceable right voluntarily.

10.4. The question raised by the applicant regarding the compulsory deregistration of the registered brand name to sell the rice in deregistered brand name is examined and found that the person selling goods under the registered brand name is not eligible for exemption. If he is selling the goods in another brand name which is not registered, then he has to file necessary documents and also clearly follow the conditions prescribed for claiming the exemption. The applicant can possess the registered brand name while selling goods in unregistered brand, but to claim exemption he must not sell using the registered brand name.

10.5. With regard to the question No.3, when the person deregistered the registered brand name and sells the rice in the unregistered brand name, he shall voluntarily forego his actionable claim or enforceable right on such brand name. Further, he has to file an affidavit to that effect with the jurisdictional Commissioner of Central Tax or State Tax and on each such unit containers, clearly print in indelible ink, both in English and the local language, that in respect of the such brand name he has foregone his actionable claim or enforceable right voluntarily then such sale of rice is exempted from GST.

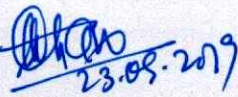


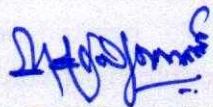
11. In view of the foregoing, we pass the following

**RULING**

1. The manufacturers of rice who sells rice under Registered Brand name are liable to GST @ 5% on such sale of rice. Those manufacturers who sells rice under unregistered Brand name foregoing their actionable claim or enforceable right on such brand name by filing an affidavit and printing disclaimer on unit container to that effect are exempted from GST.
2. The manufacturers can hold the registered brand name while selling the rice under unregistered brand after following all the other conditions prescribed. However, if they sell in the registered brand name, they would not be eligible for exemption.
3. The manufacturers of rice, selling under deregistered brand name, are eligible for exemption of GST after foregoing voluntarily their actionable claim or enforceable right on such brand name by filing an affidavit and printing disclaimer on unit container regarding foregoing of their actionable claim or enforceable right on such brand name.



  
23.09.2019  
(Harish Dharnia)  
Member

  
(Dr. Ravi Prasad.M.P.)  
Member

Place : Bengaluru,  
Date : 23-09-2019

To,

The Applicant

Copy to :

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Commissioner of Central Tax, Belgaum Commissionerate, Belgaum.

The Asst. Commissioner, LGSTO-490, Bellary.

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