

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

**BEFORE THE BENCH OF**

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax  
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id		27AALCA3900H1ZU
Legal Name of Applicant		M.U.N. AGRO INDUSTRIES PVT. LTD.
Registered Address/ Address provided while obtaining user id		634, COMMODITY EXCHANGE BLDG, PLOT NO.2/3/4, SECTOR 19, VASHI, NAVI MUMBAI-400705
Details of application		GST-ARA, Application No. 17 Dated 27.04.2018
Concerned officer		Range - III, Div -III, CGST & Central Excise Office, CGO Complex, CBD Belapur, Navi Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	<b>Factory / Manufacturing</b>
B	Description (in brief)	M.U.N Agro Industries Pvt Ltd is private abattoir which deals with Sheep and Goat meat and has a processing and freezing plant located at Palghar district and head office at Valhi.
Issue/s on which advance ruling required		(i) classification of goods and/or services or both (ii) applicability of Notification issued under the provisions of the Act
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

**PROCEEDINGS**

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by M.U.N. AGRO INDUSTRIES PVT. LTD., the applicant, seeking an advance ruling in respect of the following questions.

- Whether our product or goods fall under chapter tariff heading 0204 and exemption given to this tariff item vide Notification No. 02/2017 - Central Tax (Rate) dated 28/06/2017 is available to us or not ?
- We are supplying meat in HDPE gunny Bag. Whether it is treated as unit container or not?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST 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 provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

**02. FACTS AND CONTENTION - AS PER THE APPLICANT--**

- We are supplier of Frozen Meat of Sheep and Goats.
- Frozen Meat of Sheep and Goats (other than frozen and put up in unit container) having Tariff Item No. 0204 is exempted vide notification no. 2/2017 - Central Tax (Rate) dated 28/06/2017.
- Frozen meat have to be supplied in bag and we are supplying frozen meat in HDPE Gunny Bag on which neither we are printing or mentioning any specific weight nor we are supplying any fixed weight in one bag. Such bags are not exclusively used for packing meat. It is available in general market and used to pack anything like grains, pulses etc.

Our Question is, whether frozen meat supplied in such bag of different weight and size will be treated as frozen meat put up in unit container?

Submissions dated 13.07.2018.

As required by you in final hearing, we are submitting herewith as follows;





1. Copy of Tender Note (RFP)
  2. Copy of Acceptance of Tender Note
  3. Trade Mark Search Report (including Details of Class/Goods covered)
  4. Sample Purchase Order from Army (Demand for Contracted Items)
- Further we have to state that following are the two questions on which advance ruling was required;
    - a. Whether our product or goods fall under chapter tariff heading 0204 and exemption given to this tariff item vide Notification No. 02/2017 - Central Tax (Rate) dated 28/06/2017 is available to us or not ?
    - b. We are supplying meat in HDPE gunny Bag. Whether it is treated as unit container or not?
  - We have relied on following two notification;
    - Notification No. 02/2017 - Central Tax (Rate) dated 28/06/2017
    - Notification No. 44/2017 - Integrated Tax (Rate) dated 14/11/2017.
  - A conjoint reading of above mentioned notifications reveals that GST is chargeable on meat subject to fulfillment of following condition, otherwise it is exempt.
    - w.e.f. 1<sup>st</sup> July 2017 to 14<sup>th</sup> November 2017
      - Must be Frozen
      - Must be put up in unit container.
    - w.e.f. 15<sup>th</sup> November 2017
      - Must be Frozen
      - Must be put up in unit container
      - Must bear a brand name.
  - According to explanation to Notification No. 02/2017 - Central Tax (Rate) dated 28/06/2017 the phrase "registered brand name" means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person, and which is registered under the Trade Marks Act, 1999.
  - According to explanation to 44/2017 - Integrated Tax (Rate) dated 14/11/2017 following sub clause is substituted, namely:-
    - (b) The phrase "registered brand name" means, -
      - (A) a brand registered as on or after the 15th May 2017 under the Trade Marks Act, 1999 irrespective of whether or not the brand is subsequently deregistered;
      - (B) a brand registered as on or after the 15th May 2017 under the Copyright Act, 1957(14 of 1957);
      - (C) a brand registered as on or after the 15th May 2017 under any law for the time being in force in any other country."

GST is charged only when all three conditions are satisfied. Out of three condition one important condition is that product must bear registered brand name.

We do not have any brand name for our product. But we have registered our company's logo (M.U.N.) under The Trade Mark Act.

- However we are not using that logo on HDPE bags used for packaging of our product.
- We are sticking label (sample copy is already submitted in last hearing) indicating details like "Manufactured & Packed at", FSSAI No., Storage Instruction, Batch No. and Date of packaging as all this details mandatory as per FSS Act.

**Our point of view:-**

- As per definition, registered brand name means name which is used in relation to such specified goods for the purpose of indicating connection between such specified goods and some person, and which is registered under the Trade Mark Act.
- We do not have any brand name for our product but we have registered logo of Company's name. However we are not using that logo on HDPE bags which are used for packaging of our product. Hence we are not indicating any connection between such specified goods and that person.
- Therefore, we are of the view that our product is unbranded and exemption is available vide Notification No. 44/2017 - Integrated Tax (Rate) dated 14/11/2017.

**Statement of applicants interpretation of law in respect of question raised on which Advance Ruling is sought.**

- Explanation (i) to notification 02/2017 - Central Tax (Rate) dated 28/06/2017 have explained the phrase "Unit container" as a package, whether large or small (for example Tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.
- In our case, we are not mentioning or printing any weight / pre-determined quantity/number on such bag and also in one bag we are not packing standard/fixed quantity. Hence we are interpreting that our bag is not an unit container.

**03. CONTENTION - AS PER THE CONCERNED OFFICER -**

The submission, as reproduced verbatim, could be seen thus-

**Submissions on 25.06.2018**

Sr.No. 1 to 13 No comments (These provide details of the applicant)





Sr.No. 14 Question (1) -

Dressed frozen meat packed in HDPE gunny bags supplied by applicant would not fall under the chapter tariff heading 0204 and therefore, exemption given vide Notification No. 02/2017 - Central Tax (Rate) would not be available to the applicant in this case. However, in the case of dressed chilled meat it would be fall under the Chapter tariff heading 0204 and therefore, exemption vide Notification No. 02/2017 - Central Tax (Rate) would be available.

Sr. No. 14 Question (2) -

The impugned packing would satisfy the requirement of the definition of "unit container" as found in the Notification No. 02/2017 - Central Tax (Rate) and therefore, it should be treated as "unit container".

Sr. No. 15 Statement of relevant facts -

Point No. (1 &2) - No comments

Point no.3 - In the description of their process in sr.no. 12(B)(2) the applicant has mentioned that their products are labeled for the weight of carcass.

Point no. (4) - Notification No. 02/2017 - Central Tax (Rate) exempts the listed goods from whole of the Central Tax leviable. Tariff heading 0204 in said notification exempts Meat of sheep or goats, fresh, chilled or frozen (other than frozen and put up in unit container). In the explanation given in the same Notification Unit Container is defined as follows:

The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a predetermined quantity or number, which is indicated on such package.

Despite the applicant's contention that they are neither supplying any fixed weight in one bag nor mentioning any specific weight on the label, it should still qualify as "Unit Container" as the weight or meat to be supplied is predetermined according to their contract (sample copy enclosed). Since the weight of the Carcass is weighed and labelled by the applicant as described in sr.no. 12B (2) and as the concerned person are aware of the weight of meat being supplied to them by their vendor, it qualifies as "Predetermined quantity".

Sr. no. 15 Statement containing applicant's interpretation -

Point no. (1) - no comments

Point no. (2 & 3) - On a similar issue, in the case of M/s. Ahmednagar District Goat Rearing and Processing Co-op Federation Ltd, the Maharashtra Authority for Advance Ruling has also observed that the whole animal carcass in its natural shape in frozen state in different weight and sizes packed in LDPE bags without mentioning the weight would still qualify as unit container. Therefore, it should qualify as unit container.

Sr. no. 17 & 18 No comments

In view of the above submissions, if the applicant supplies frozen meat in HDPE gunny bags exemption vide Notification No. 02/2017 - Central Tax (Rate) should not be available. However, the exemption should be available in the case of chilled meat as the said notification disallows exemption for meat which is frozen and put up in unit container.

#### 04. HEARING

The case was taken up for preliminary hearing on dt. 26.06.2018, with respect to admission or rejection of the application when Sh. Yogesh Ratnani, C.A., and Sh. Prakash Morbia, Tax Consultant along with Sh. Mohammed Sufiyan Nagani, Director appeared and made contentions as per details in their ARA. The jurisdictional officer, Ms. Nishtha Sharma, Asstt. Commissioner of GST & CE, Division-III, Belapur Commissionerate appeared and made written submissions.

The application was admitted and final Hearing was held on 11.07.2018, Sh. Yogesh Ratnani, C.A., and Sh. Prakash Morbia, Tax Consultant along with Sh. Mohammed Sufiyan Nagani, Director appeared made contentions as per their ARA. They were requested to provide copy of Tender, Trade Mark Certificate class of goods covered by this trademark which they agreed to submit. The jurisdictional officer, Ms. Nishtha Sharma, Asstt. Commissioner of GST & CE, Division-III, Belapur Commissionerate appeared and made written submissions.

#### 05. OBSERVATIONS

We have perused the records on file and gone through the facts of the case and the submissions made by the applicant and the department. The written contention submitted by the applicant and jurisdictional officer are also considered on this issue.

Applicant M/s M.U.N Agro Industries Pvt Ltd is private limited company which deals in Sheep and Goat meat and has a processing and freezing plant located at Palghar district and head office is at Vashi.



The applicant submits that he is a supplier of the meat dressed chilled/frozen at various stations of command of the army as per the agreed terms between the applicant and Indian Army. The supplies are against tender. Applicant further submits that Frozen meat have to be supplied in bag and they are supplying frozen meat in HDPE Gunny Bag on which neither they are printing or mentioning any specific weight nor they are supplying any fixed weight in one bag. Such bags are not exclusively used for packing meat. It is available in general market and used to pack anything like grains, pulses etc. Applicant further submit that they are not mentioning or printing weight/predetermined quantity or number on such bag. And also in one bag they are not packing standard / fixed quantity. On this set of facts applicant submits that the impugned bag in which frozen carcass is supplied is not a unit container as defined in the notification 1/2017 and 2/2017- Integrated Tax (Rate) dated 28/06/2017.

From the facts as narrated above and for the fact that they are also supplying meat as per Tender of the Indian Army under similar terms and conditions, we find that these facts are similar to the facts recorded by us in the Advance Ruling already given in case of M/s. Monrovia Leasing and Finance Pvt Ltd bearing order No. GST-ARA-20/2017-18/B-83, Mumbai, dated 04/08/2018. For the sake of clarity we reproduce the relevant observation recorded by us in case of M/s. Monrovia Leasing and Finance Pvt Ltd which are as below-

*Now we have been called on to find out whether the facts mentioned above have any similarity with the facts of the present case. From the facts submitted by the applicant and veted by jurisdictional officer by paying visit to the factory we find that the facts of the present case are substantially different from M/s. Ahmednagar District Goat Rearing and Procession Co-operative Federation Ltd. To summarize the facts we find that the period in case of ARA ruling is from 01/07/2017 till present and going forward whereas in case of appellant it is from 01/04/2018 till present and going forward. The product supplied in both the case is same i.e. frozen goats and sheep carcass. However as respect packaging of the product supplied which is a crucial aspect we find that there is a substantial difference. In case of appellant there is no printing or marking of weight or number of carcass packed in such bags and there is no mentioning of brand name. Further the tender pursuant to which impugned supplies are to take place there is no requirement from Army regarding mentioning weight or number on the packaging material. Whereas in case of M/s. Ahmednagar District Goat Rearing and Procession Co-operative Federation Ltd packaging conditions mentioned in Terms and Conditions "RFP" given by Army required mentioning of actual weight on the secondary packaging. In this regard appellant submitted letter dated 28/05/2017 issued by Col. S. HQ Southern Command Pune with following declaration-*

*"It is certified that chilled/frozen chicken/meat is supplied to the Army by various firms through Annual Contracts. As per order on the subject, the net weight / numbers of the item is not required to be mentioned on the packaging".*

*Thus the issue before us is whether such supply is covered by the expressions 'unit container' as defined in the notifications mentioned. The expression 'unit container' as defined in the notification is as below:*

*Explanation- for the purpose of this schedule (Notification 1/2017 and 2/2017-Intergrated Tax (Rate) both dated 28<sup>th</sup> June, 2017*

*The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a predetermined quantity or number, which is indicated on such package.*

For the purpose of above definition package to be called 'unit container' has to satisfy following conditions simultaneously-

1. Package may be large or small
2. Packaging designed to hold predetermined quantity or number
3. Such predetermined quantity or number is indicated on such package.

From the facts submitted by the applicant and as verified by the jurisdictional officer during his factory visit, we find that each package is containing different weight and no weight/number is mentioned on packages. In view of above we are convinced that impugned supply would not satisfy the requirement of the definition of 'unit container' as found in both the notification cited supra. In this view of the matter, we hold that the supply of whole sheep/goat carcass in frozen state packed in LDPE bag and further packed in HDPE bag which do not indicate any information related to weight /number of the carcass packed in such bags as product not put up in a unit container and bearing a brand name for the purpose of notification 1/2017 and 2/2017- Integrated Tax (Rate) dated 28<sup>th</sup> June, 2017.

For above discussion we do not find any cogent reason to deviate from the view which we have already taken. Accordingly we hold that the frozen meat of sheep / goat in HDPE gunny bag which do not indicate any information related to weight / number of carcass packed in such bags would tantamount to being as a product not put up in unit container and thus falls under chapter tariff heading 0204 and is further covered by serial no. 9 of Notification No.2/2017 Integrated Tax (Rate) dated 28/06/2017 as amended.

06. In view of the deliberations as herein above, we pass the order as under:-

#### ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO. GST-ARA- 17/2018-19/B- 68 Mumbai, dt. 16.07.2018

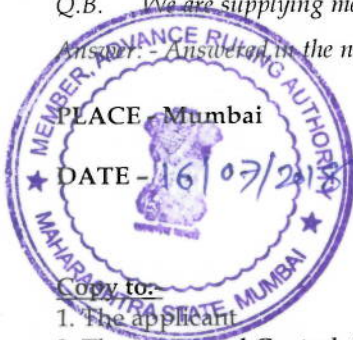
For reasons as discussed in the body of the order, the questions are answered thus -

Q.A Whether our product or goods fall under chapter tariff heading 0204 and exemption given to this tariff item vide Notification No. 02/2017 - Central Tax (Rate) dated 28/06/2017 is available to us or not?

Answer: - Answered in the affirmative.

Q.B. We are supplying meat in HDPE gunny Bag. Whether it is treated as unit container or not?

Answer: - Answered in the negative in view of the facts of the case.



—st—  
B. V. BORHADE  
(MEMBER)

—st—  
PANKAJ KUMAR  
(MEMBER)  
**CERTIFIED TRUE COPY**

  
**MEMBER**  
**ADVANCE RULING AUTHORITY**  
**MAHARASHTRA STATE, MUMBAI**

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State tax , Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai - 400021