
 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR - 302005 (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2018-19/38



J.P.Meena Additional Commissioner	: Member (Central Tax)
Hemant Jain Joint Commissioner	: Member (State Tax)
Name and address of the applicant	: Rajasthan Rajya Sahakari Kriya Vikraya Sangh Ltd., 4, Sahkar Bhawan, Bhawani Singh Road, Jaipur 302001
GSTIN of the applicant	: 08AAAAR0279B1ZU
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	: b. Applicability of a notification issued under the provisions of this act, classification of goods and/or services or both; c. determination of time and value of supply of goods or services or both; e. Whether any particular thing done by the applicant with respect o goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term;
Date of Personal Hearing	: 01.03.2019
Present for the applicant	: Shri G.N.Sharma, Advocate (Authorised Representative)
Date of Ruling	: 22.03.2019

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

The issue raised by Rajasthan Rajya Sahakari Kriya Vikraya Sangh Ltd., situated at 4, Sahkar Bhawan, Bhawani Singh Road, Jaipur 302001, (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2)(b) and (e), given as under :

- 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;
- e. Whether any particular thing done by the applicant with respect o goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term;

Further, the applicant being a registered person (GSTIN is 08AAAAR0279B1ZU, as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.



1. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

- a. The applicant is a co-operative society registered under the Rajasthan Co-operative Societies Act, 1953, (Now 2001) and has its office at Bhawani Singh Road, 'C'-scheme, Jaipur, and is a registered taxable person under the Rajasthan Goods and Service Tax Act, 2017, and Central Goods and Service Tax Act, 2017 vide GSTIN No. is 08AAAAR0279B1ZU.
- b. That, the applicant deals in trading in various items and providing services as commission agent to other registered Taxable persons.
- c. That, the applicant carries its business activity of providing services to agriculturist for buying their agriculture produce and selling those produces in the open market.
- d. That, the applicant also helps to the National Agriculture Co-

Operative Marketing federation of India Ltd., (NAFED) for procuring agriculture produce from farmers and supply them as per their instructions i.e. NAFED for implementation of Government policies of purchases on Minimum Support Price (MSP) and purchase support Schemes of items as prescribed by the Central as well as the State Governments.

- e. That, the applicant entered into an agreement with NAFED (a Government of India Undertaking) on 03/11/2018 for procurement of oilseeds and pulses, for the NAFED under the Government Schemes of MSP and PSS respectively.
- f. That, the applicant has been allowed for commission @ 2% by the NAFED for procurement of oilseeds and pulses either through Kray Vikray Sahkari Samiti or by itself, in case of procurement is through Kray Vikray Sahkari Samiti, out of the above 2 % commission, 1 % has to be given to the Kray Vikray Sahkari Samiti.
- g. That, the applicant has been ordered to provide the above oilseed and pulses after packing in gunny bags. That, for the above requirement of packing in gunny bags the applicant made an agreement on 12/09/2018 with the NAFED for procuring gunny bags after calling tenders from respective sellers in the open market.
- h. That, according to the terms and condition number 02 of the above agreement dated 12/09/2018 the applicant is liable for making payment to the NAFED @ 1% + IGST on the naked cost price of the Gunny bags supplied by the supplier agency, of the purchases made by NAFED for and on behalf of the applicant.
- i. That, in terms of agreement dated 03/11/2018 with NAFED, the RAJFED instructed to Kray Vikray Sahkari Samiti for procuring the oilseeds and pulses and supply them to the applicant.
- j. That, according to the Para number 3. ii of the above agreement dated 12/09/2018 the Jute Mill shall arrange loading of the gunny bags of NAFED's authorised transporter and transporter



shall deliver the goods at the same destination provided by the RAJFED/NAFED. The NAFED shall co-ordinate with the principal and Jute Mill for the smooth functioning of the same. That, according to the point number 3.vi of the above agreement the NAFED shall make payment to the Jute Mills/Transporter/Survey or son behalf of the applicant, for your ready reference copy of the agreement dated 12/09/2018.



- k. That, the applicant has been dealing as an “agent” of NAFED in the whole transaction and make payment on procurement of goods whatever it may be either by itself or through Kray Vikray Sahkari Samiti to the farmers.
- l. That, on procurement/purchases of gunny bags by NAFED under instruction of the applicant, the applicant make payment to the NAFED and the final payment is made by the NAFED to the sellers.
- m. That, the Government of India as well as the State Government of Rajasthan both of them have notified through their notification numbers 50/2018 - Central Tax Dated: 13th September, 2018, and F.12(46)FD/Tax/2017-Pt.—113 dated 13/09/2018 respectively about to deduct tax at source (TDS) on payments or credit on supply of goods as well as service or both on contract to contractors according to section 51 of both the Acts i.e. CGST/RGST, for your ready reference both of them are reproduced hereunder:-

Section 51 of the CGST Act:-

51.(1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

- (a) a department or establishment of the Central Government or State Government; or*
- (b) local authority; or*
- (c) Governmental agencies; or*
- (d) such persons or category of persons as maybe notified by the Government on the recommendations of the Council,*



(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent from the payment made or credited to the supplier(hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

- n. The applicant submitted a copy of agreement between NAFED and itself and copy of letter of registration as a Co-operative Society under Rajasthan Co-operative Society Act, 1953 vide e-mail dated 06.03.2019.
- o. The applicant further submitted copy of invoices issued by itself to NAFED regarding procurement of agricultural produce, Commission charges and also invoices raised by Krya Vkrya Sahakari Samiti regarding procurement of agricultural produce, Commission charges on vide e-mail dated 22.03.2019.

2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

- a. Whether the applicant is liable for charging goods and service tax under the RGST Act, 2017 and CGST Act, 2017 on providing

service for procurement of agricultural produce i.e. oilseeds and pulses from farmers either itself or through Kray Vikray Sahakari Samiti on behalf of its principal i.e. National Agriculture CO-Operative Marketing federation of India Ltd. (NAFED).

- b. Whether the applicant is liable for charging RGST/CGST or IGST as the case may be on its outward supplies of goods as well as services after having procured through Krah Vikrah, Sahakari Samiti according to the purchase order of the NAFED.
- c. Whether the applicant being a Co-Operative society registered under the Rajasthan State Co-Operative Society Act, 1953 now consolidated in the Rajasthan Co-Operative Societies Act, 2001 is liable to deduct Tax at Source (TDS) from payment to or credit of KrahVikrah, Sahakari Samiti/RAJFED under Notification No. 50/2018-central tax dated 13.09.2018 for their services of procurement of oilseeds and pulses for the applicant to be supplied by the applicant to its principal NAFED.
- d. Whether the applicant being a Co-Operative society registered under the Rajasthan State Co-Operative Society Act, 1953 now consolidated in the Rajasthan Co-Operative Societies Act, 2001 is liable to deduct Tax at Source(TDS) from payment to or credit of RAJFED under Notification No. 50/2018-Central Tax dated 13.09.2018 for their services of procurement of gunny bags, transportation, insurance and services of surveyors for the applicant to be supplied by the applicant to it's principal NAFED itself.



3. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 01.03.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Mr. G.N. Sharma, Advocate (Authorised Representative) of the

applicant appeared for PH. During the PH, he reiterated the submissions already made in the application and also submitted additional submission (copy of establishment of RAJFED as a Co-operative society under Rajasthan Co-operative Societies Act, 1953(now 2001) along with a copy of agreement between RAJFED and NAFED. He further requested that the case may be decided at the earliest.

4. COMMENTS OF THE JURISDICTIONAL OFFICER



The jurisdiction officer (Assistant Commissioner, CGST Division-H, CGST Jaipur Commissionerate, Jaipur) has submitted his comments vide letter dated 01.02.2019 which can be summarized as, the applicant is liable for charging CGST and SGST on providing service for procurement of agricultural produce and on outward supplies through Krah Vikrah, Sahakari Samiti as the same are not mentioned in exempted services notified through Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017. The applicant is also covered under Notification No. 50/2018- Central tax dated 13.09.2018 read with section 51 of CGST Act, 2017 and is therefore liable to deduct Tax at Source from payment to or credit of Krah Vikrah, Sahakari Samiti/RAJFED for the aforesaid services.

5. FINDINGS, ANALYSIS & CONCLUSION:

- I. We observe that, the applicant has entered in to an agreement dated 03.11.2018 with NAFED for procurement of agricultural produce i.e. oilseeds and pulses for NAFED under the government schemes of MSP and PSS respectively. That as per said agreement, the procured material has to be delivered in gunny bags to NAFED. The applicant in this regard has entered in to a separate agreement dated 12.09.2018 with NAFED for

procuring gunny bags after calling tenders from respective sellers in the open market. The applicant receives commission @2% from NAFED for procurement of agricultural produce and if this procurement is being done through Kray Vikray Sahkari Samiti, then, out of the above 2% commission, 1% is given to Kray Vikray Sahkari Samiti by the applicant.



II. The activity of the applicant is either a supply of goods or a service of commission agent. The relevant provisions under GST law in respect of principal-Agent relationship are reproduced below:-

- The GST law has provided the definition of the term “principal” as “a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both”.
- As per section 2(5) of the CGST Act, 2017, *‘agent’ means a person, including a factor, broker, commission agent, arhatia, del-credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.*
- As per section 2(13) of the IGST Act, 2017, *“intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account”.*
- Based on the legal definitions, the traits of an agent, in layman terms, can be determined as mentioned below:

An agent is a person engaged in the supply or receipt of goods and/or services on behalf of other (the other person is referred to as the ‘principal’).The agent carries

on the business of supply and/or receipt of goods and/or services on behalf of the principal.



- The applicant is providing service of a commission agent for procurement of agricultural produce. The activity of commissioning agent is though taxable but if such services are provided in relation to agricultural produce, then the same is exempted by way of Notification No. 12/2017 Central Tax (rate) dated 28.06.2017 (as amended from time to time). The relevant portion of the said Notification is reproduced as below:

Sl. No.	Chapter ,Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
54	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,	Nil	Nil



		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; [(h) services by way of fumigation in a warehouse of agricultural produce.]28		
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In view of the above facts, we observe that the activity of applicant as a commission agent providing services to the principal (NAFED) is exempted under Serial No. 54 of the Notification No. 12/2017 Central Tax (rate) dated 28.06.2017 under chapter/section heading 9986.

III. We have examined the copy of invoices submitted by the applicant and observe that:-

- a. The applicant is issuing invoice for supply of goods (agricultural produce) to a purchaser/buyer (as directed by NAFED) and is charging GST on such goods.
- b. Kray Vikray Sahakari Samiti is raising invoice in favour of the applicant for commission charges @ 1% of the value of supply.
- c. The applicant is raising invoice to NAFED for commissioning charges of itself as well as Kray Vikray Sahakari Samiti @ 1% each on the value of supply.

As the applicant as a supplier of goods is raising invoice in his name for further supply thus holding of title of goods is being transferred from NAFED to the applicant.

IV. Now in examining whether the activity undertaken is a supply of goods or not, the section 7 of CGST/RGST Act, 2017 which defines supply is reproduced below:

7. (1) For the purposes of this Act, the expression "supply" includes—



- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (b) import of services for a consideration whether or not in the course or furtherance of business;
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
- (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

The activity undertaken by the applicant though involves transfer of title of holding of goods but is not for consideration therefore does not fall under sub-section (a) of Section 7 of CGST/SGST Act, 2017. However, while going through the Schedule-I of the CGST/SGST Act, 2017, the relevant portion of which is reproduced as under:-

3. Supply of goods—

- (a) *by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or*
- (b) *by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.*

We observe that, the activity of further supply of goods (agricultural produce) on direction of NAFED by the applicant is a supply of goods under the Schedule-I of CGST/SGST Act, 2017.

V. Reference may also be taken of Circular No.57/31/2018-GST dated 04th of September, 2018, issued by CBIC regarding clarifications on “Scope of Principal-agent relationship in the context of Schedule I of the CGST Act”. The relevant portion applicable to instant case is summarized as under:-

- In terms of Schedule I of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), the

supply of goods by an agent on behalf of the principal without consideration has been deemed to be a supply.

- As per section 182 of the Indian Contract Act, 1872, an “agent” is a person employed to do any act for another, or to represent another in dealings with third person. The person for whom such act is done, or who is so represented, is called the “principal”.
- As delineated in the definition, an agent can be appointed for performing any act on behalf of the principal which may or may not have the potential for representation on behalf of the principal. So, the crucial element here is the *representative character of the agent* which enables him to carry out activities on behalf of the principal.
- Further, the two limbs of any supply under GST are “consideration” and “in the course or furtherance of business”. Where the consideration is not extant in a transaction, such a transaction does not fall within the ambit of supply. But, in certain scenarios, as elucidated in Schedule I of the CGST Act, the key element of consideration is not required to be present for treating certain activities as supply. One such activity which has been detailed in para 3 of Schedule I (hereinafter referred to as “the said entry”) is reproduced hereunder:

3. Supply of goods—

(a) *by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or*

(b) *by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.*



It may be noted that the crucial factor is how to determine whether the agent is wearing the representative hat and is supplying or receiving goods on behalf of the principal.

Thus, the key ingredient for determining relationship under GST would be **whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not.**

Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Schedule I of the CGST Act.

In the instant case, the applicant issues an invoice in his name for further supply to a buyer/purchaser (as directed by the Principal i.e. NAFED), therefore, this activity is a supply of goods in terms of Schedule I of the Central Goods and Services Tax Act, 2017, and attracts GST as applicable (the supply of goods by an agent on behalf of the principal without consideration has been deemed to be a supply).

VI. The GST applicability on outward Supply of pulses (without any brand name)

The relevant portion of the Notification No. 02/2017 Central Tax (Rate) dated 28.06.2017 is reproduced below:


Sl. No.	Chapter ,Section or Heading	Description of Goods
(1)	(2)	(3)
45	0713	Dried leguminous vegetables, shelled, whether or not skinned or split.

Thus, the applicant is not liable for charging RGST/CGST or IGST on outward supply of pulses (without any brand name) through Krah Vikrah, Sahakari Samiti as the same is exempted under

Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017 in accordance to section 11(1) of CGST Act, 2017.

The GST applicability on outward Supply of oilseeds (other than of seed quality)

The relevant portion of the Notification No. 02/2017 Central Tax (Rate) dated 28.06.2017 is reproduced below:



Sl. No.	Chapter ,Section or Heading	Description of Goods
(1)	(2)	(3)
63	12	All goods other than of seed quality
64	1201	Soya beans, whether or not broken other than of seed quality.
65	1202	Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken other than of seed quality.
66	1203	Copra other than of seed quality
67	1204	Linseed, whether or not broken other than of seed quality
68	1205	Rape or colza seeds, whether or not broken other than of seed quality.
69	1206	Sunflower seeds, whether or not broken other than of seed quality
70	1207	Other oil seeds and oleaginous fruits (i.e. Palm nuts and kernels, cotton seeds, Castor oil seeds, Sesamum seeds, Mustard seeds, Safflower (Carthamustinctorius) seeds, Melon seeds, Poppy seeds, Ajams, Mango kernel, Niger seed, Kokam) whether or not broken, other than of seed quality

Thus, the applicant is liable for charging RGST/CGST or IGST on outward supplies of oilseeds (other than of seed quality) made through Krah Vikrah, Sahakari Samiti and the same attracts GST@5% (SGST 2.5% + CGST 2.5%) under Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017 in accordance to section 11(1) of CGST Act, 2017.

VII. Section 51 of CGST/SGST Act, 2017 has made provision in relation to Tax Deduction at Source(TDS) which is as below:-

51. (1) *Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—*

- (a) *a department or establishment of the Central Government or State Government; or*
- (b) *local authority; or*
- (c) *Governmental agencies; or*
- (d) *such persons or category of persons as may be notified by the Government on the recommendations of the Council,*

(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

VIII. Further, the Central Government by way of Notification No. 50/2018 (Central Tax) dated 13.09.2018 appointed the 1st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force with respect to persons specified under clauses (a), (b) and (c) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely:-



- (a) an authority or a board or any other body, -
- (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government,
with fifty-one per cent. or more participation by way of equity or control, to carry out any function;
- (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- (c) public sector undertakings.

On examination of submissions of the applicant, it is found that the applicant is a co-operative society established under Rajasthan Co-operative Societies act, 1953 (Now 2001). The applicant is not a department, not a local authority, not a governmental agency and the co-operative society act is also different thus do not fall under any category of Section 51 of the CGST/SGST Act , 2017 and is not eligible to become a TDS deductor. Therefore provisions of TDS are not applicable in accordance with Section 51 of the CGST/SGST Act, 2017.

6. In view of the foregoing, we rule as follows:-

RULING

- a. The applicant is not liable for charging goods and service tax under the SGST Act, 2017 and CGST Act, 2017 on providing service for procurement of agricultural produce i.e. oilseeds and pulses from farmers either itself or through Kray Vikray Sahakari Samiti on behalf of its principal i.e. NAFED as the same is exempted for a Commission Agent of agricultural produce under Serial No. 54 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.


b. (i) The applicant is not liable for charging RGST/CGST or IGST on outward supply of pulses(other than branded) through Krah Vikrah, Sahakari Samiti according to the purchase order of the NAFED as the same is exempted under Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017.




(ii) The applicant is liable for charging RGST/CGST or IGST on outward supply of Oilseeds (other than seed quality) through KrahVikrah, Sahakari Samiti according to the purchase order of the NAFED and attracts GST @ 5% (SGST @ 2.5% + CGST @ 2.5%) in accordance with Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017.

c. As the applicant is not covered under Notification No. 50/2018-central tax dated 13.09.2018 read with Section 51 of CGST Act, 2017 and is therefore not liable to deduct Tax at Source (TDS) from payment to or credit of KrahVikrah, Sahakari Samiti /RAJFED.

d. As the applicant is not covered under Notification No. 50/2018-Central Tax dated 13.09.2018 read with Section 51 of CGST Act, 2017 and is therefore not liable to deduct Tax at Source (TDS) from payment to or credit of KrahVikrah, Sahakari Samiti /RAJFED for their services of procurement of gunny bags, transportation, insurance and services of surveyors for the applicant to be supplied by the applicant to its principal NAFED itself.


J.P.MEENA 28/3/19
Member
(Central Tax)


HEMANT JAIN 28/3/19
Member
(State Tax)

SPEED POST

Rajasthan Rajya Sahakari Kriya Vikraya Sangh Limited,
4, Sahkar Bhawan,
Bhawani Singh Road,
Jaipur 302001



F.No. AAR/RAJFED/2018-19/104-107

Dated: 26.03.2019

(CGST)/(SGST)

Copy to:-

1. Commissioner, SGST & Commercial Taxes, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, CGST and Central Excise Jaipur Commissionerate, NCRB, Statue Circle, Jaipur 302005.
3. Deputy/Assistant Commissioner, CGST Division-H, CGST Jaipur Commissionerate, Sector-10, Vidyadhar Nagar, Jaipur 312001.


Superintendent