

**BEFORE THE AUTHORITY FOR ADVANCE
RULINGS FOR THE STATE OF UTTARAKHAND
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)

श्री विपिन चन्द्र (सदस्य)

Shri Amit Gupta (Member)

श्री अमित गुप्ता (सदस्य)

The 18th day of December 2018

Ruling No- 13/2018-19

अग्रिम विनिर्णय संख्या.

In

Application No: 12

आवेदन संख्या. 12

1	Applicant आवेदक	M/s Sam Overseas, 32, VIM Square, Rudrapur
2	Jurisdictional Officer अधिकारिता अधिकारी	Deputy Commissioner (Assessment), 1st State Tax Rudrapur, Uttarakhand
3	Present for the Applicant आवेदक की ओर से उपस्थित	Shri Sanjay Gupta, Partner
4	Concerned Officer	Mrs. Preeti Manral, DC- SGST
5	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	Nil
6	Date of receipt of application आवेदन प्राप्ति की तिथि	19.09.2018
7	Date of Personal Hearing सुनवाई की तिथि	30.10.2018

Note :- Under Section. 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

नोट : इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

1. This is an application under Sub-Section (1) of Section 97 of the CGST /SGST Act, 2017 (herein after to be referred as "Act") and the rules made thereunder filed by M/s Sam Overseas, 32, VIM Square, Rudrapur seeking an advance ruling on the question of classification and rate of GST on various receipts received by the applicant on the count of distribution of electricity.
2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
3. As per the said subsection (2) of Section 97 of the Act ibid advance ruling can be sought by an applicant in respect of :
 - (a) Classification of any goods or services or both
 - (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,
 - (d) Admissibility of input tax credit of tax paid or deemed to have been paid
 - (e) Determination of the liability to pay tax on any goods or services or both
 - (f) Whether the applicant is required to be registered
 - (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term
4. In the present case applicant has sought advance ruling on classification and applicability of GST rate on the 'Rejected Wheat Seed' and 'Rejected Paddy Seed'. Therefore, in terms of said Section 97(2)(a) & (e) of CGST/SGST Act, 2017, the present application is hereby admitted.
5. The Joint Commissioner (Executive), SGST, Rudrapur Division, in concurrence with the report from Deputy Commissioner, SGST, Khand-I, Rudrapur, vide his letter dated 04.10.2018 submitted the report, in this regard, as under:
 1. On point no. 1, the question raised by the applicant in his application is neither already pending nor has the same been determined in any proceedings in party's other matters under the provisions of this Act.
 2. On point no. 2, there is no entry with the name of "Rejected Seed' in Uttarakhnad Goods and Service Tax Act' 2017. There is a description of 'All goods other than seed quality" at Sl. No. 63 of its Schedule-1, supply of which, attracts tax at the rate of 5%. Thus, the tax appears to be leviable at the rate of 5% on supply of 'Rejected Seed' in question.
6. Accordingly opportunity of personal hearing was granted to the applicant on 30.10.2018. Shri Sanjay Gupta, Partner appeared for personal hearing on the said date and submitted documents describing therein exact nature of work being undertaken. Mrs. Preeti Manral, Deputy Commissioner, SGST-Dehradun appointed as concerned officer by the competent authority of State GST was also present during the hearing proceedings.

7. In the present application, applicant has requested for advance ruling on leviability of GST on supply of 'Rejected Wheat Seed' and 'Rejected Paddy Seed'. On this issue we have different views and are discussed as under:

(a) [Ruling per: Vipin Chandra, Member] — After having gone through the issue, I am of the considered opinion that the 'Wheat Seed' and 'Paddy Seed' rejected as seed, does not remain seed anymore. Further 'Rejected Wheat Seed' and 'Rejected Paddy Seed' can not be termed as cereals either as during the process, it has to under go the chemical treatment, therefore does not remain fit for human consumption as well. I have observed that there is no entry in the name of 'Rejected Wheat Seed' and 'Rejected Paddy Seed' in the GST tariff, however, there is a description of 'All goods other than seed quality' at Sl. No. 63 in Schedule-1 of the said Tariff. Accordingly, tax is leviable at the rate of 5% on supply of these 'Rejected Wheat Seed' and 'Rejected Paddy Seed'. The details is as under –

Chapter/ Heading/ Sub-heading/ Tariff Item	Description of goods	GST Rates Rate of tax			
		Central CGST	State/UT SGST/UTGST	Inter- State IGST	Compensation Cess
12	All goods other than of seed quality	2.5%	2.5%	5%	Nil

- (b) [Ruling per: Amit Gupta, Member] — Respectfully, I have gone through the views expressed by Hon'ble Member, Shri Vipin Chandra. I differ with the views of other Ld. Member and as regard to leviability of GST on supply of 'Rejected Wheat Seed' and 'Rejected Paddy Seed' as per the application filed by the applicant, my answer is in negative. To appreciate the law position in this regard, the relevant portion of the Act is reproduced as under:

(i). As per "Introduction to GST Tariff", Customs Tariff is adopted for classification of the goods that are not classified anywhere in GST tariff. To avoid classification disputes, notifications issued by Government indicate that Customs Tariff has been adopted for descriptive classification of goods under GST. The Section Notes, Chapter Notes and Rules of interpretation of Customs Tariff have also been adopted.

In this regard, the relevant portion of HS Code 1001 and 1006 of Chapter 10 (Cereals) of the Customs Tariff is reproduced as under –

HS Code	Description of goods	Unit
(1)	(2)	(3)
1001	Wheat and meslin	
	<i>Durum wheat ;</i>	
1001 11 00	-- Seed	kg.
1001 19 00	-- Other	kg.
	- <i>Other ;</i>	
1001 91 00	-- Seed	kg.

1001 99	-- Other :	
1001 99 10	--- Wheat	kg.
1001 99 20	--- Meslin	kg.

1006	Rice	
1006 10	- Rice in the husk (paddy or rough) :	
1006 10 10	--- Of seed quality	kg.
1006 10 90	--- Other	kg.
1006 20 00	- Husked (brown) rice	kg.
1006 30	- Semi-milled or wholly-milled rice, whether or not polished or glazed :	
1006 30 10	--- Rice, parboiled	kg.
1006 30 20	--- Basmati rice	kg.
1006 30 90	--- Other	kg.
1006 40 00	- Broken rice	kg.

On going through the relevant HS code of the Customs Tariff, I observe that the 'seed of Wheat and Meslin' has been given under HS Code 10011100 and 10019100 and also, under HS Code 10061010, Rice in the husk (paddy or rough) of 'seed quality' has been given, however, it is nowhere mentioned in said HS code whether it covers either the rejected' or the non-rejected 'Wheat Seed' and 'Paddy Seed'. Hence, in general, the HS Code 1001 and 1006 under the Customs Tariff covers all the 'Wheat Seed' and 'Paddy Seed' irrespective of the fact whether it is rejected or non-rejected.


The relevant portion of the Chapter 10 of the GST tariff is reproduced as under -

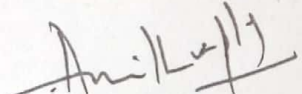
Chapter/ Heading/ Sub-heading/ Tariff Item	Description of goods	GST Rates Rate of tax			
		Central	State/UT	Inter- State	Compensation Cess
		CGST	SGST/UTGST	IGST	
1001	Wheat and meslin [other than those put up in unit container and bearing a registered brand name]	Nil	Nil	Nil	Nil
1006	Rice [other than those put up in unit container and bearing a registered brand name]	Nil	Nil	Nil	Nil

In view of the above, I observe that the 'Rejected Wheat Seed' and 'Rejected Paddy Seed' is classified under HS Code 1001 and 1006 of the Customs Tariff and, as per chapter note of GST tariff, the tax is leviable at the 'Nil' rate on supply of the 'Rejected Wheat Seed' and 'Rejected Paddy Seed' in question.

RULING

In view of the above, as regards to classification and leviability of GST on supply of 'Rejected Wheat Seed' and 'Rejected Paddy Seed', *we have different views as discussed supra*. We are, therefore, making a reference to the Appellate Authority for hearing and decision on said issue in terms of Section 98(5) of the Act *ibid* which provide that where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

AUTHORITY FOR ADVANCE RULING GOODS & SERVICE TAX, UTTARAKHAND

F.NO. : 12/STATE TAX/UKD/GST/SEC-97/2018-19/DDM/7299 Dated : 12/12/18

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for review.
2. The Commissioner, CGST, Commissionerate, Dehradun for review.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for review.
4. The Assistant Commissioner, CGST, Division, Rudrapur for review.
5. The Deputy Commissioner-I, SGST, Rudrapur for review.
6. The Concerned officer, SGST, Rudrapur.
7. Guard File.