



**RAJASTHAN APPELLATE AUTHORITY FOR  
ADVANCE RULING  
GOODS AND SERVICES TAX**

**NCR BUILDING, STATUE CIRCLE, C-SCHEME  
JAIPUR – 302005 (RAJASTHAN)**



PROCEEDINGS UNDER SECTION 101 OF THE CENTRAL GST ACT, 2017 AND  
RAJASTHAN GST ACT, 2017

BEFORE THE BENCH OF

1. MS. ARCHANA P. TIWARI, MEMBER
2. SH. ALOK GUPTA, MEMBER

ORDER NO. RAJ/AAAR/01/2018-19 DATED 15.10.2018

Name and address of the applicant	:	Sardar Mal Cold Storage & Ice Factory, H-41, 142, 150, Malviya Industrial Area, Malviya Nagar, Jaipur (Rajasthan) - 302017
GSTIN of the applicant	:	08AAGFS8243M1ZM
Clause(s) of Section 97(2) of CGST / SGST Act, 2017, under which the question(s) raised	:	Applicability of a Notification issued under the provisions of GST Acts
Date of Personal Hearing	:	09.10.2018
Present for the applicant	:	Shri Alok Kumar Kothari, CA
Details of Appeal	:	Appeal No. RAJ/AAAR/APP/01/2018-19 against Advance Ruling No. RAJ/AAR/2018-19/03 dated 11.06.2018

**BRIEF FACTS OF THE CASE**

1. M/s Sardar Mal Cold Storage & Ice Factory (hereinafter referred to as 'Appellant') had submitted an application seeking an Advance Ruling on the Entry No. 24 of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 which at S. No. 24 (i)(i)(c) provides tax rate as 'NIL' for services of loading, unloading, packing, storage or warehousing

of agricultural produce as a support services to agriculture, forestry, fishing, animal husbandry. The applicant sought advance ruling over the coverage of definition of support services of loading, unloading, packaging, storage or warehousing of agriculture produce as explained at Explanation (i) (e) given at S.No 24 of the said notification.

2. That the Appellant is the owner of the cold storage house and therefore provides storage and warehousing facilities to variety of produce termed by them as 'Agricultural produce'. The explanation provided at pt. 4 (vii) of the notification defines agriculture produce as

*"agricultural produce" means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.*" And

If any Product falls under the definition of the agriculture produce, then by virtue of S. No 24 of the notification the activity of storage attracts Nil rate of Duty .

3. The Appellant had submitted a list of various products categorised from Group 'A to Group 'C' and the process done on those agriculture commodities before they come into cold storage in order to seek advance ruling that whether the goods which comes for storage will come under the definition of agricultural produce or not and whether the supply of Cold Storage services by the appellant firm to various products as mentioned herein below attracts Nil rate of duty or not as per Notification No. 11/2017 Central tax (Rate) dated 28/06/2017.

4. The Appellant submitted that none of the products goes through any processing till they come to the cold storage which changes the essential character or marketability of these produce purchased from the farmers/cultivators by the traders. The buyers of the agriculture produce in all the above cases are not carrying out any process leading to change in essential character or enhancing the marketability of produce which is purchased from the cultivators. Thus, what is stored at the cold storage are primarily an agriculture produce and are covered under the definition of the agriculture produce as defined under explanation- 4(vii) of the Notification No. 11/2017 Central tax(Rate) dated 28/06/2017 and Notification No 12/2017 – Central Tax (Rate) dated 28/6/17 (at point 2(d) of the notification) hence attracts NIL rate of duty as per S. No. 24 of the notification no 11/2017 or S. No 54 of the notification no 12/2017.



5. Appellant sought Advance Ruling on the question whether all the goods as listed in their application are covered under the definition of agriculture produce as defined under explanation 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and Notification No 12/2017 –Central Tax (Rate) dated 28/6/17 (at point 2(d) of the notification) hence attracts NIL rate of duty as per S. No. 24 of the notification no 11/2017 or S. No 54 of the notification no 12/2017.

6. Authority for Advance Ruling (AAR) vide its Ruling dated 11.06.2018 ruled that Goods mentioned under Group A falls under the definition of Agricultural Produce in terms of the aforesaid notification and so supply of cold storage service in relation to these is exempt from the levy of GST . However if any processing is done on these products as is not usually done by a cultivator or producer at farm level ,then these would fall outside the definition of agricultural produce as given in the aforesaid Notification and in that case supply of cold storage service in relation to these would remain chargeable to GST.Goods mentioned under Group B to G are not Agricultural produce in terms of the aforesaid notification and so the supply of cold storage service in relation to these would remain chargeable to GST.

7. Being aggrieved with the Ruling of the AAR, the Appellant has filed appeal before this forum.

### **CASE FOR THE PARTY**

8. That the appellant is the owner of the cold storage house and therefore provides storage and warehousing facilities to variety of agriculture produce. The explanation provided at pt. 4 (vii) of the notification defines agriculture produce as :-

“agricultural produce” means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.”

9. If any Product falls under the definition of the agriculture produce then by virtue of S.No. 24 of the notification the activity of storage attracts **NIL** rate of Duty.

10. The appellant is hereby discussing the various products and the process done on those agriculture commodities before they come into cold storage.

That at the end of the appellant it is pertinent to decide whether the goods which comes for storage will come under the definition of agricultural produce or not as the decision will have a bearing on the tax rate as storage of agricultural produce attracts Nil Rate of duty.

11. Discussions are made herein below over the products and the process if any applied by the Farmers/Cultivators/ Traders before the products comes for Storage Purpose. The products are grouped as follows:

**GROUP-A**



Name of goods	Stage at which commodities come for storage and process if any applied by the Farmers/Cultivators/Traders before the products comes for Storage Purpose.	Remarks
<ol style="list-style-type: none"> <li>1. Fennel (Saunf)</li> <li>2. Coriander (Dhaniya)</li> <li>3. Cumin seeds (Jeera)</li> <li>4. Carom seeds (Ajwain)</li> <li>5. Fenugreek Seeds (Kasoori Methi Dried)</li> <li>6. Mustard Seeds (Sarson)</li> </ol>	<p>The goods covered by this group are agriculture produce and brought by farmers in a ready to marketable shape. But being a product of agriculture the product contains certain small pieces of stones, dust, mud and other impurities etc.</p> <p>In order to sale to consumers and as per the requirement of various other allied laws like Food Safety and Standards Authority of India (FSSAI) The produce are require to be clean therefore</p>	<ol style="list-style-type: none"> <li>1. That as per the description provided in Column No. 2 there is a clear cut storage of the agriculture produce and the appellant seeks the advance ruling over the coverage of the goods covered by Column No. 1 under the definition of agriculture produce which is</li> </ol>



<p>7. Brown Mustard Seeds(Rai)</p> <p>8. Nigella Seeds (Kalonji)</p> <p>9. Poppy seeds (Posara daana)</p>	<p>aforementioned impurities are removed by cleaning which is either done by the cultivator or traders before it comes for storage purpose.</p> <p>But the agriculture produce retains its essential character and there is no change in the product or its marketability due to the cleaning process. The products which are sold by cultivator and stored at the appellant's cold storage, remains the same agriculture product except the difference that farmers sold the goods with small pieces of stones, dust, mud, impurities etc. and the trader who bought the goods and arranges for the cold storage of the goods gets it cleaned prior to storage so that unnecessary storage of waste product should not be done.</p> <p>The process of cleaning or removing the dust does not change the essential character of the goods in question nor add any marketability. The products remains same before or after removing dust .</p>	<p>given in the explanation provided at Pt. No. 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and hence attracts 'NIL' rate of duty.</p> <p>2. That the appellant will reproduce the sample of the goods at the time of Hearing, before the Bench to explain the contention.</p>
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**GROUP-B**

Name of goods	Stage at which commodities come for storage and process if any applied by the Farmers/Cultivators/Traders before the products comes for Storage Purpose.	Remarks
<ol style="list-style-type: none"> <li>1. Turmeric (Haldi)</li> <li>2. Dried Ginger (Sonth)</li> <li>3. Dates (Khajoor)</li> <li>4. Dry Dates (Chhuhara)</li> </ol>	<ol style="list-style-type: none"> <li>1. That the goods like Turmeric, Ginger, Dates Dry Dates which are undoubtedly an agriculture produce but in order to make them marketable both the cultivator or the farmer undertakes the process of preserving by way of polishing or drying of the product which doesn't change the essential character of the products in question but makes it sustainable &amp; marketable. The traders buy these goods and make them available for cold storage. Thus, products which are stored are an agriculture produce.</li> <li>2. It is also pertinent to bring to your kind notice that sometimes the traders purchases the raw form from the farmers and get it polished to make it marketable and get it stored. But the product retains its essential character of being an agriculture produce.</li> </ol>	<ol style="list-style-type: none"> <li>1. That as per the description provided in Column No. 2 there is a clear cut storage of the agriculture produce and the appellant seeks the advance ruling over the coverage of the goods covered by Column No. 1 under the definition of agriculture produce which is given in the explanation provided at Pt. No. 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and hence attracts 'NIL' rate of duty.</li> <li>2. That the appellant will reproduce the sample of the goods at the time of Hearing, before the Bench to explain the</li> </ol>





		contention.
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**Group-C**

Name of goods	Stage at which commodities come for storage and process if any applied by the Farmers/Cultivators/Traders before the products comes for Storage Purpose.	Remarks
1. Tamarind (Imli)	<p>The Tamarind are primarily produced or cultivated by small farmers who remove the shell or the upper part and bring the inner part (which is the consumable part of Tamarind) for sale.</p> <p>The Tamarind may or may not come for storage with seeds.</p>	<p>1. That as per the description provided in Column No. 2 there is a clear cut storage of the agriculture produce and the appellant seeks the advance ruling over the coverage of the goods covered by Column No. 1 under the definition of agriculture produce which is given in the explanation provided at Pt. No. 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and hence attracts 'NIL' rate of duty.</p> <p>2. That the appellant will reproduce the sample of the</p>



		goods at the time of Hearing, before the Bench to explain the contention.
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**Group-D**



Name of goods	Stage at which commodities come for storage and process if any applied by the Farmers/Cultivators/Traders before the products comes for Storage Purpose.	Remarks
1. Dry Mango (Amchur) 2. Kathodi 3. Dry Gooseberry (Dry Amla) 4. Dry Water - Caltrop/Water Cashewnut (Sukha Singadha) 5. Dry Peas (Sukha Matar)	<p>The products that come for cold storage purpose are in a dry form. The cultivator or farmer who produces or grows the product does certain essential processing like washing, drying, cutting so that products become marketable at the end of the farmers.</p> <p>The cultivators bring these goods in a dry/ cut form to the Mandis and thereafter goods are bought by the traders in the same form and shape as it is bought by the farmers to the Mandi.</p> <p>The traders who bought the goods don't process it any further before bringing the goods for storing the goods at cold storage. Thus, the product in questions retains it essential character as agriculture produce.</p>	<p>1. That as per the description provided in Column No. 2 there is a clear cut storage of the agriculture produce and the appellant seeks the advance ruling over the coverage of the goods covered by Column No. 1 under the definition of agriculture produce which is given in the explanation provided at Pt. No. 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and hence attracts 'NIL' rate of duty.</p>



		2. That the appellant will reproduce the sample of the goods at the time of hearing before the Bench to explain the contention.
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**Group-E**

Name of goods	Stage at which commodities come for storage and process if any applied by the Farmers/Cultivators/Traders before the products comes for Storage Purpose.	Remarks
1. Cinnamon (Dalchini) 2. Gum(Gond) 3. ArjunaChaal	<p>The products in a question are bark (Outer most layer of the wood) of the trees. The product always retains its natural shape as the bark is outermost part of the trees and without any processing it is ready to use or consume. It comes to market for sale and in a same shape /form as it is obtained by the farmers and also comes to storage houses in a same form as it is purchased from farmer as no processing is require. There is no intermediary process is ever done or require right from the point of peeling of the skin till the point of consuming.</p>	1. That as per the description provided in Column No. 2 there is a clear cut storage of the agriculture produce and the appellant seeks the advance ruling over the coverage of the goods covered by Column No. 1 under the definition of agriculture produce which is given in the explanation provided at Pt. No. 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated



		<p>28/06/2017 and hence attracts 'NIL' rate of duty.</p> <p>2. That the appellant will reproduce the sample of the goods at the time of Hearing, before the Bench to explain the contention.</p>
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**Group-F**



Name of goods	Stage at which commodities come for storage and process if any applied by the Farmers/Cultivators/Traders before the products comes for Storage Purpose.	Remarks
<p>1. Groundnuts (Mungphali)</p> <p>2. Copra Gola (Coconut)</p>	<p>Groundnut and coconut as globally known are products with outer shell which has no use. The farmers bring the entire product which includes nut, and its outer shell to the market. The trader only gets the outer shell remove for the convenience of storage of the goods but it can be easily appreciated that the Groundnut and coconut are always known, purchase, grown for the nut and its outer shell has no use whatsoever. So, removal of outer shell either at the hands of cultivator or at the hands of the trader will never bring any change in its essential character</p>	<p>1. That as per the description provided in Column No. 2 there is a clear cut storage of the agriculture produce and the appellant seeks the advance ruling over the coverage of the goods covered by Column No. 1 under the definition of agriculture produce which is given in the</p>



	<p>or marketability of the Groundnut and coconut The goods are always stored in its form without any processing ever done right from the stage of cultivator till storage.</p> <p>The removal of outer shell can never be categorised by any stretch of imagination as a process as it never contributes either to marketability or changing the essential character of the agriculture produce of Groundnut and Coconut.</p>	<p>explanation provided at Pt. No. 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and hence attracts 'NIL' rate of duty.</p> <p>2. That the appellant will reproduce the sample of the goods at the time of Hearing, before the Bench to explain the contention.</p>
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**Group-G**



Name of goods	Stage at which commodities come for storage and process if any applied by the Farmers/Cultivators/Traders before the products comes for Storage Purpose.	Remarks
<p>1. Dry fruits such as Fig(Anjeer), Almond (Badaam), Walnuts (Akhrot),Pistachio(Pista) , Lotus Seeds Pop (PhoolMakhana) etc.</p>	<p>The product in a question is product with outer shell which has no use. So, removal of outer shell either at the hands of cultivator or at the hands of the trader will never bring any change in its essential character or marketability of the product The goods are</p>	<p>1. That as per the description provided in Column No. 2 there is</p>

always stored in its form without any processing ever done right from the stage of cultivator till storage. The removal of outer shell can never be categorised by any stretch of imagination as a process as its never contributes either to marketability or changing the essential character of the agriculture produce.

a clear cut storage of the agriculture produce and the appellant seeks the advance ruling over the coverage of the goods covered by Column No. 1 under the definition of agriculture produce which is given in the explanation provided at Pt. No. 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2





		<p>017 and hence attracts 'NIL' rate of duty.</p> <p>2. That the appellant will reproduce the sample of the goods at the time of hearing before the Bench to explain the content on.</p>
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12. That the above discussions in relation to the products categorised above it is very clear that none of the products discussed above goes through any processing till they come to the cold storage which changes the essential character or marketability of the agriculture produce purchase from the farmers/cultivators by the traders.

The buyers of the agriculture produce in all the above cases are not carrying out any process leading to change in essential character or enhancing the marketability of agriculture produce which is purchased from the cultivators. Thus, what is stored at the cold storage are primarily an agriculture produce and will attract NIL rate of duty under the notification discuss supra.

13. Further the contentions of the appellants also get support from the Education guide of Service Tax where under Section 66D of the Finance Act 1994 the various processes including “storage or warehousing of agricultural produce” were covered under the negative list. Hence, no Service Tax was levied on the appellant firm on the cleaning activity under the erstwhile Finance Act 1994. Reference is made to the point 4.4.7 of the Education guide(as reproduced at below paragraphs ) where products like cereals, pulses, copra and jaggery were answered in affirmative that they are covered in the ambit of ‘agricultural produce’ since on these products certain amount of processing may be done by a person other than a cultivator or producer.

14. Further as discussed in the main application that many products the following activity is done either by cultivator or trader before goods are taken to cold storage like “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”. That the activities narrated above were also exempted under Section 66D of the Finance Act 1994 and also clarified at the Education guide of Service Tax Reference is made to the point 4.4.6 of the Education guide(as reproduced at below paragraphs). Also the same position stands in GST regime and Identical Process on agricultural produce are enjoying the “Nil “ Rate of duty.



15. That the reliance placed at para 8.3 upon Circular No. 16/16/2017 GST dated 15/11/17 is misplaced as the issue covered by circular is only in relation to processed tea, processed coffee beans, processed pulses and processed dry fruits. The Board Circular had not clarified in general or had not covered the products discussed in the present application. Discussion made in Board circular are of the process which changes the nature of the agriculture produce but process like simply cleaning or packing cannot be termed as process which takes the goods out of definition of agriculture produce.

#### **PERSONAL HEARING**



16. Personal hearing was given to appellant on 09.10.2018. Shri Alok Kumar Kothari, Advocate, appeared for Appellant for personal hearing on 09.10.2018. During the PH he reiterated the submission already made in the appeal memo .

### **Discussion and Findings**

17. The issue to be decided by us is whether the goods mentioned in Group A to Group G which comes for storage will come under the definition of Agricultural produce or not and whether the supply of Cold Storage services by the appellant to the goods attracts Nil rate of tax or not as per Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 and Notification No 12/2017 –Central Tax (Rate) dated 28/06/2017

18. Before proceeding further, we are reproducing relevant portion of the notification No.11/2017- Central Tax (Rate) dated 28.06.2017 and notification No. 12/2017 Central tax (Rate) dated 28/06/2017 .

18.1. As per Notification No. 11/2017 Central tax (Rate) dated 28/06/2017, Sr. No. 24 in the table therein, **Central tax** on the intra-State supply of services of description "*Support services to agriculture, forestry, fishing, animal husbandry*" **is applicable at NIL rate.**

In the said notification, in the Table, as per serial number 24, description of service given as,

(i) Support services to agriculture, forestry, fishing, animal husbandry.

*Explanation.* - "Support services to agriculture, forestry, fishing, animal husbandry" mean -

(i) 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, 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.
- (ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
- (iii) Carrying out an intermediate production process as job work in relation 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.

Further definition of agricultural produce as defined under explanation 4 (vii) of the Notification No. 11/2017 Central tax (Rate) dated 28/06/2017 as

*“agricultural produce” means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.*

**18.2** As per Notification No. 12/2017 Central tax (Rate) dated 28/06/2017, Sr. No. 54 in the table therein, **Central tax** on the intra-State supply of services of description *“Support services to agriculture, forestry, fishing, animal husbandry”* is exempt.

In the said notification, in the Table, as per serial number 54, description of service given as *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, unloading, packing, storage or warehousing of agricultural produce;**
- (f) agricultural extension services;





Further definition of agricultural produce, as defined under explanation 2(d) of the Notification No. 12/2017 Central tax (Rate) dated 28/06/2017 as :

*"agricultural produce" means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.*

19. The CBIC has also clarified the issue by way of issuance of Circular No. 16/16/2017 GST dated 15-11-2017, regarding GST applicability on warehousing of 'Agricultural Produce' such as coffee, pulses, jaggery etc.. The clarification clearly deals with certain issues such as :-

1. Primary Market :- Green tea leaves which attain primary marketability soon after being plucked from tea plant is 'Agricultural Produce' and not the dried tea leaves.
2. Essential characteristic :- Sugarcane loses its essential characteristic when processed as jaggery. Hence jaggery is not a 'Agricultural Produce'.
3. Process :- Dehusking and splitting or both of pulses is not carried out by farmer or at farm level therefore pulses are not 'Agricultural Produce'. While pulse grain such as whole grain, Rajama etc which are directly sold in primary market with little or no processing at farm level are regarded as 'Agricultural Produce'.

Based on above notifications and circular, goods as per Group A to G are discussed as follows

**Group A**

**Renel(Saunf), Coriander(Dhaniya), Cumin Seeds (Jeera), Carom Seeds(Ajwain), Fenugreek Seeds(Kasoori Methi), Mustard Seeds (Sarson), Brown Mustard Seeds (Rai), Nigella Seeds(Kalonji), Poppy Seeds(Posara Dana) :**

The Appellant has mentioned that the above products are subjected to cleaning of dust, mud and impurities at the end of the trader. They have added that the process of cleaning or removing the dust does not change the essential character of the goods in question nor add any marketability to the product .

We find that the process of cleaning adds to the value for farmer when the product is taken for sale in the primary market. And this process can be undertaken at the farm level also. Hence Services of storage or warehousing of such produce would remain exempt under the above said notifications No. 11/2017-Central Tax (Rate) and 12/2017- Central Tax (Rate) both dated 28.06.2017.

However if any processing is done on above products **as is not usually done by a cultivator or producer at farm level**, then these would fall outside the definition of agricultural produce as given in the aforesaid Notification No. 11/2017-Central Tax (Rate).

**Group B**

**Turmeric (Haldi), Dried Ginger (Sonth) , Dates(Khajoor) , Dry Dates (Chhuhara):**

The Appellant has mentioned that in order to make them marketable both the cultivator or the farmer undertakes the process of preserving by way of polishing or drying of the product which doesn't change the essential character of the products in question but makes it sustainable & marketable. They further added that sometimes the traders purchases the raw form from the farmers and get it polished to make it marketable.

We find that the cultivator brings green/ raw turmeric and ginger to the mandis . Further drying and polishing of them is a specialized process not carried out by cultivator which converts them into dry haldi (masala) and into dried ginger (Sonth.) . These processes adds to the marketability and value of these products and makes them suitable for sale directly to the consumer. Similarly dates and dry dates also after being sold in primary market go under specific process of sorting, cleaning, drying and polishing which is not done by the cultivator . Hence processed turmeric , Ginger , Dates and Dry dates all fall outside the definition of agriculture produce. Hence Services of storage or warehousing of such produce would not remain exempt under the above said notifications No. 11/2017-Central Tax (Rate) and 12/2017-Central Tax (Rate) both dated 28.06.2017.



**(Group C)**

**Tamarind**

The Appellant has mentioned that Tamarind are primarily produced or cultivated by small farmers who remove the shell or the upper part and bring the inner part (which is the consumable part of Tamarind) for sale.

We find that in case of tamarind, the tamarind pod is cracked open, string (fibre) are removed and kernel is taken out. Thus, the resultant tamarind (ambali foal) also do not fall under the definition of agriculture produce as the shelling and removal of seeds to obtain the pulp is usually done by specially designed machines. Hence inner pulp without shell and/or seeds do not fall under the definition of 'Agricultural Produce' as it loses its essential characteristics. Therefore Services of storage or warehousing of such produce would not remain exempt under the above said notifications No. 11/2017-Central Tax (Rate) and 12/2017- Central Tax (Rate) both dated 28.06.2017.



**(Group D)**

**Dry mango ( Sukha Amchur) ( Kacchi Karrie) , Kathodi (Sukhi Kathodi) , Dry Gooseberry (Sukha Amla) (Kacha Amla), Dry Water Caltrop/Water Cashewnut (dry Singadha), Dry Peas (Sukha Matar)**

The appellant has submitted that the cultivators bring these goods in a dry/ cut form to the Mandis and thereafter goods are bought by the traders in the same form and shape as it is bought by the farmers to the Mandi. The traders who bought the goods don't process it any further before bringing the goods for storing the goods at cold storage. Thus, the product in questions retains it essential character as agriculture produce.

We find that all the above mentioned produces are obtained from processing of their green counterparts . Farmers bring green or raw produce in the market which in turn is purchased by the Traders who then undertake certain processes such as washing , cutting, shelling, cleaning, drying, packing etc. These processes lead to a considerable value addition as compared to that of product sold in primary market which is in itself reflection of change in there essential characteristic hence the above cannot be characterized as Agricultural produce and Services of storage or warehousing of such produce would not remain exempt under the above said notifications No. 11/2017-Central Tax (Rate) and 12/2017- Central Tax (Rate) both dated 28.06.2017.

**(Group E)**

**Cinnamon ( Dalchini), Gum (Gond), Arjuna Chaal ( Arjun Chaal)**

The Appellant has submitted that the products in question are bark of the trees. It comes to market for sale in the same shape/form as it is obtained by the farmers and also comes to storage houses in the same form as it is purchased from farmer as no processing is required.

We find that the affairs are not so simple as has been described by the Appellant. Cinnamon (Dalchini) is obtained from the inner bark of the tree of species Genus CINNANOMUN. It undergoes a specific process involving hammering , scrapping, drying, cutting, fumigation, packing etc. After harvesting these processes are not done by farmers but are being done by skilled labour at specific plants set up to extract bark from the branches harvested. Raw gum is collected by the farmers or gum collectors from outer bark of Acacia tree . It is not sold as such to the consumer. In industrial plants raw gum is cleaned, refined, powered and made in granular form , fit to be consumed by the consumers. Arjuna Chaal is got from the tree, Arjun Terminalia. The bark also undergoes certain processing before it is fit to be used in Ayurvedic Industries. This processing can't be undertaken at the farm level.

Hence the above products don't fall under the category of Agricultural Produce and Services of storage or warehousing of such produce would not remain





exempt under the above said notifications No. 11/2017-Central Tax (Rate) and 12/2017- Central Tax (Rate) both dated 28.06.2017.

**(Group F)**

**Groundnuts (Mungfalli), Coconut (Copra Gola)**

The Appellant has submitted that the farmers bring the entire product which includes nut, and its outer shell to the market. The trader only gets the outer shell removed for the convenience of storage of the goods but it can be easily appreciated that the Groundnut and Coconut are always known, purchase, grown for the nut and its outer shell has no use whatsoever. So, removal of outer shell either at the hands of cultivator or at the hands of the trader will never bring any change in its essential character or marketability of the Groundnut and coconut .

We can't appreciate the stand taken by the Appellant . There is no need of removing outer shell for selling the groundnut or coconut in the primary market . Removal of outer shell makes these capable for sell in the secondary market also . Further this process is not undertaken at the farm . Only by help of machines or specialized plants, outer shell is removed .

Thus the above produce without shell do not fall into the category of Agricultural Produce and Services of storage or warehousing of such produce would not remain exempt under the above said notifications No. 11/2017-Central Tax (Rate) and 12/2017- Central Tax (Rate) both dated 28.06.2017.



**(Group G)**

**Dry fruits such as Fig ( Anjeer) Almond (Badaam), Walnuts ( Akhrot), Pistachio ( Pista), Lotus Seed Pop (Phool/ Tal Makhana) etc.**

The Appellant has submitted that the product in a question is product with outer shell which has no use so it is removed before storage. The removal of outer shell can never be categorised by any stretch of imagination as a process as its never contributes either to marketability or changing the essential character of the agriculture produce.

We can't subscribe to the theory advanced by the Appellant. These products are sold in primary market by Cultivator as raw and green . Various processes like cleaning, deshelling, specialized drying, sorting, grading, packing etc. are then undertaken before these goods become ready for consumption by the consumer. These are not the processes which can be undertaken at the farm . These processes substantially add to the value of the produce .

Hence the above produce do not fall under category of Agricultural Produce and Services of storage or warehousing of such produce would not remain exempt under the above said notifications No. 11/2017-Central Tax (Rate) and 12/2017- Central Tax (Rate) both dated 28.06.2017.



21. We find that the appellant has at many places justified his version of things on the basis of Educational guide on Taxation of Services. We want to make it clear that this guide does not command any legal backing. It is merely an educational aid based on a broad understanding of a team of officers of the issues . It has been made very much clear under the Heading "what is the aim of this guide" , which is being reproduced :-

"It is clarified at the outset that this guide is merely an educational aid based on a broad understanding of a team of officers of the issues. It is neither a "Departmental Circular" nor a manual of instructions issued by the Central Board of Excise and Customs. To that extent it does not command the required legal backing to be binding on either side in any manner. The guide is being released purely as a measure of facilitation so that all stakeholders obtain some preliminary understanding of the new issues for smooth transition to the new regime"

Reference is also invited to Circular No.16/16/2017-GST dated 15.11.2017 which squarely delineates applicability of GST on agricultural produce. It has been made very much clear vide this circular that what is an agricultural produce and what is not . This circular is an excellent guide to determine whether a particular produce can be termed as an agricultural produce or not. Vide this circular it has also been made clear that any clarification issued in the past contrary to this circular in the context of Service Tax or VAT/ Sales Tax is no more relevant.

22. In view of the foregoing , we rule as under :-

### RULING

Based on the above discussion, we don't find any reason to interfere with the Ruling given by the Authority for Advance Ruling. The Appeal stands disposed of in above terms .

  
(ARCHANA P. TIWARI)

MEMBER

To

*Speed Post*  
M/s SARDAR MAL COLD STORAGE & ICE FACTORY,  
H-41,142,150, MALVIYA INDUSTRIAL AREA,  
MALVIYA NAGAR, JAIPUR (RAJASTHAN) - 302017

  
(ALOK GUPTA)  
MEMBER

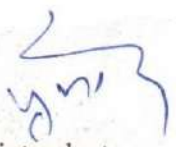


F.No. IV(16)AAAR/RAJ/01/2018-19 11364-11369

Dated. 16.10.2018

Copy to :-

1. The Chief Commissioner of CGST , Jaipur Zone , Jaipur .
2. The Commissioner of SGST & Commercial Taxes, Rajasthan , Jaipur.
3. The Assistant/Deputy Commissioner of Central GST Division-E , Jaipur.
4. The State Tax Officer, Ward-4, Circle-J, Jaipur Zone-II, Divisional Kar Bhawan, Jhalana Institutional Area, Jaipur.
5. The Web Manager, [www.gstcouncil.gov.in](http://www.gstcouncil.gov.in)
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o/c

