

**TAMILNADU APPELLATE AUTHORITY FOR ADVANCE RULING**  
**(Constituted under Section 99 of Tamilnadu Goods and Services Tax Act**  
**2017)**

**A.R.Appeal No. 1/2018/AAAR**

**Date: 06.02.2019**

**BEFORE THE BENCH OF**

1. **Thiru.C.P.RAO, MEMBER**

2. **Dr.T.V.SOMANATHAN, MEMBER**

**ORDER-in-Appeal No. AAAR/01/2019 (AR)**

(Passed by Tamilnadu State Appellate Authority for Advance Ruling under Section  
101(1) of the Tamilnadu Goods and Services Tax Act, 2017)

**Preamble**

1. In terms of Section 102 of the Central Goods & Services Tax Act 2017/Tamil Nadu Goods & Services Tax Act 2017("the Act", in Short), this Order may be amended by the Appellate Authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the Applicant within a period of six months from the date of the Order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the Appellant has been given an opportunity of being heard.

2. Under Section 103(1) of the Act, this Advance Ruling pronounced by the Appellate Authority under Chapter XVII of the Act shall be binding only

(a). On the Applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for Advance Ruling;

(b). On the concerned officer or the jurisdictional officer in respect of the Applicant.

3. Under Section 103 (2) of the Act, this Advance Rulingshall be binding unless the law, facts or circumstances supporting the said Advance Rulinghave changed.

4. Under Section 104(1) of the Act, where the Appellate Authority finds that Advance Rulingpronounced by it under sub-section (1) of Section 101 has been obtained by the Appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the Appellant as if such Advance Rulinghas never been made.

Name and address of the Appellant	M/s.Saro Enterprises, No. 26, First Reddy Street, Ekkattuthangal, Chennai 600032.
GSTIN or User ID	33AANPM1974C1ZS
Advance Ruling Order against which appeal is filed	Order No. 16/AAR/2018 dated 27.09.2018
Date of filing Appeal	22.11.2018
Represented by	Mr.R.Kumar, Finance Manager
Jurisdictional Authority-Centre	Chennai South Commissionerate
Jurisdictional Authority -State	The Assistant Commissioner (ST), Guindy Assessment Circle, 46, Pasumpon Muthuramalingam Salai, Taluk Office Building, RA Puram, Chennai- 600028
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs. 20000/- made vide challan No. UTIB18113300369791 dated 22/11/2018.

**At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.**

The subject Appeal has been filed under Section 100(1) of the TamilNadu Goods & Services Tax Act 2017 /Central Goods & Services Tax Act 2017(hereinafter referred to 'the Act') by M/s. Saro Enterprises No. 28, First Reddy Street, Ekkattuthangal, Chennai 600032 (hereinafter referred to as 'Saro' or 'Appellant'). The Appellant is registered under GST vide GSTIN 33AANPM1974C1ZS. The Appeal is filed against the Order No. 16/AAR/2018 dated 27.09.2018 passed by the TamilNadu State Authority for Advance Ruling on the Application for Advance Ruling filed by the Appellant.



2.0 The Appellant under section 97(1) of the Act, has sought Advance Ruling on the classification of 'Agricultural seedling trays' manufactured and supplied by them. They had also sought the 'Applicable tax on Agricultural trays', stating that the goods are agricultural implements under Chapter 8201 which is exempted as per Sl.No. 137 of Notification No 2/2017-Central Tax dt 28.06.2017 as amended. The original Advance Ruling Authority after due examination has ruled as follows:

"Agricultural Seedling Trays made of Plastic manufactured by the Applicant are classifiable under CTH 39269099 and the applicable tax rate is 9% CGST as per Sl.No. 111 of Schedule III of Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 as amended and is 9% SGST as per Sl.No. 111 of Schedule III of G.O.(Ms) No. 62 dated 29.06.2017 No. II (2) /CTR/532 (d-4)/2017 as amended."

2.1 The present Appeal is against the above Ruling. The Appellant has received the order on 24.10.2018 as mentioned in their Appeal Form GST ARA-02 and they have filed the Appeal on 22.11.2018. In terms of section 100(2) of the Act, an Appeal against Advance Ruling is to be filed within thirty days from the date of communication of the Ruling and therefore, the Appeal is filed within the prescribed time-limit.

3.0 The Appellant is involved in the business of manufacturing and marketing of disposable plastic items like lunch trays, spoons and other plastic packaging products including Plastic Seedling Trays which is used for paddy transplantation. The trays are solely used for agricultural purpose for growing paddy, and generally called 'Agricultural Seedling Trays'. They are marketing the trays to the end users, basically farmers as well as small dealers, who further make the sale of these trays to farmers. Earlier, they were registered under TNVAT Act and were exempted from the payment of tax for sale of these trays as per the clarification in proceeding order issued by the Principal Commissioner/Commissioner of Commercial Taxes, Chennai under the Authority for clarification and Advance Ruling in Ref.ACAAR No.112/2013-14 dated 23<sup>rd</sup> October 2014 to them. As per the order, this product was classified as 'Agricultural Implements' under Item (ii) of Entry I of Part-B of Fourth Schedule (TNVAT Act, 2006) read with item (13) of the List of Agricultural Implements

notified vide Notification No.II(I)/CTR/12(a-3)/2012 in G.O.Ms.No.50/CT & R (B1) Department dated 27<sup>th</sup> March 2012 and was exempted from tax.

3.1 The ARA after considering the various submissions of the Appellant which included profile of Company, write-up, pamphlets of the product, specification sheets, invoices for sale has made the above said ruling. The decision has been arrived at by the ARA considering the following:

- 'Agricultural - seeding tray' made of hard plastic or polypropylene with dimensions 600 mm x 30 mm x 30 mm with grooves dividing the tray into small squares each of which have holes of 1 mm or 3 mm size, depending on the variety of the tray. Paddy seedlings are grown in these trays after suitable soil is placed in them. The holes are designed to ensure optimum drainage of water and to prevent the roots from getting damaged.
- Once the seedlings are grown as a single mat, the trays used to transport the seedlings to the land for transplantation. This may be done directly by the farmer or the seedling mats may be placed in rice transplant machinery which will carry on the transplantation work.
- These trays are also compatible to various rice transplantation machinery in terms of the dimension of the seedlings mat grown, spacing between each seedling etc.
- The trays help in growing and transporting the seedlings in an organized, labor-saving manner, so that the seedling mats grown can be fed into the machines or planted as such by hand. However, the tray itself is not a part of any machine or used with any machine or electronically driven nor is it an accessory of any agricultural machinery.
- Rice planting machinery do not need these seedling trays to function and hence cannot be classified as parts or accessories of agricultural machinery.
- Seedling Trays made of fully of plastic i.e. polypropylene and hence it cannot be classified under chapter 82 or anywhere under Section XV and accordingly it cannot be classified under 8201 as Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; scateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry.

- Tariff Heading 39269099 covers other articles not specified. HSN Explanatory Notes to Chapter heading 3926 states *'This heading covers articles, not elsewhere specified or included of Plastics'*. Accordingly, the subject goods are rightly classified under CTH 39269099 as articles of plastics not elsewhere specified.

4. The Appellant has filed the present Appeal against the above Ruling. The grounds of appeal are that 'Though the product is made out of plastics, it is one of the common tools used in Agriculture by farmers for seedling paddy across the country. Since the product was exempted in the earlier tax regime (TNVAT) for the reason, the same is solely used for agricultural purpose, the Appellant seek exemption in GST also classifying the product under agricultural implement under Chapter 8201'

5. The Appellant was granted personal hearing as required under law before this Appellate Authority on 25<sup>th</sup> January 2019. The Authorized Representative of the appellant, Mr. R.Kumar, Finance Manager of the Appellant company and Mr. G.Shraavan, Manager appeared on behalf of the Appellant. The Learned Representatives filed a written submission dated 25<sup>th</sup> January 2019. They reiterated the same. In the written submissions, inter-alia, the Appellant stated that:

- The Appellant is a group company of SARO Group which is one of the largest manufacturers of plastic products. They manufacture and market disposable plastic items like lunch trays, spoons and other plastic packaging products including Plastic Seedling Trays which is used for paddy transplantation.
- The raw materials used for manufacturing Plastic Seedling Tray is Polypropylene. They basically use both virgin and scrap materials for manufacturing the trays. The trays are produced using injection moulding machines. The life of these trays is typically 5 years. Since these trays are recyclable, these kind of plastics don't affect the environment
- The trays are solely used for agricultural purpose for growing paddy and generally called 'Agricultural Seedling Trays'. The trays can be used with Indian as well as imported rice transplanting machines.



They market the trays to the end users, basically farmers as well as small dealers who further make the sale of these trays to farmers. The trays are of standard quality at affordable cost. These can be reused for several cycles of transplantation and has high durability and strength.

- Transplantation is an important operation of paddy cultivation. Traditional method of transplanting by hands is a labour intensive operation which consumes 33% of rice production time. Hence farmers are switching over to mechanized transplantation. This process of using trays with rice transplanting machines has comprehensive set of advantages over traditional transplantation. The trays are used for paddy transplantation either manually or with any machine.
- The demand for these trays is growing rapidly as raising paddy seedling using trays ensures even growth and the land required for growing is highly reduced. The seedlings are then planted on the soil using rice transplantation machines. This process of mechanized transplantation improves the yield by 25% and also makes the process of de-weeding easier as the seedlings are arranged in neat rows. This method also saves on labour costs and the quantity of water used
- As the trays were exempted from the earlier state tax regime TNVAT, the cost of the trays were affordable. But after GST implementation, the cost of the trays has become higher and the farmers find it difficult to afford. This also affected the sales of the trays and hence the process of mechanization.
- Earlier they were registered under TNVAT Act and were exempted from the payment of tax for sale of the trays as per the clarification order under Advance Ruling (Ref.ACAAR No.112/2013-14 dated 23rd October 2014) issued to them.
- Since they had exemption under earlier tax state law (TNVAT Act) and also the product is used solely for the purpose of agriculture, they request the proper classification and taxability of the product considering the exemption order.

6. We have carefully considered the various submissions made by the Appellant and the applicable statutory provisions. The issue before us for determination is whether the product 'Agricultural seedling tray' manufactured by the Appellant falls under Chapter 8201, as a tool used in agriculture and exempt from GST.

6.1 We find that the product under consideration is hard plastic tray made of pure poly-propylene or recycled. The trays are of standard dimensions with grooves dividing the tray into small squares each of which has holes of 1 mm or 3 mm size. Paddy seedlings are grown in these trays. The holes are designed to ensure optimum yield. The germinated seedlings are then transplanted in the field either manually or using a transplanter. The contention of the Appellant is that the product is a hand tool used for agriculture and are to be classified under Chapter Heading 8201, for which the applicable rate of GST is 'Nil' as per Notification No. 01/2017 dated 28.06.2017 as amended.

6.2 Classification of goods for the purposes of GST is based on the entries in the First Schedule to the custom Tariff Act 1975. In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, sub-heading, heading and chapter shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

6.2 The Section Notes, Chapter Notes, and Chapter Heading relevant to Chapter 8201 are to be examined. The same are as follows:

Section Notes:

**SECTION XV  
BASE METALS AND ARTICLES OF BASE METAL**

**NOTES :**

1. This Section does not cover :  
.....

3. Throughout this Schedule, the expression "base metals" means :  
 iron and steel, copper, nickel, aluminium, lead, zinc, tin, tungsten (wolfram), molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.

**Chapter Notes:**

**CHAPTER 82**

*Tools, implements, cutlery, spoons and forks, of base metal;  
 parts thereof of base metal*

**NOTES :**

1. Apart from blow lamps, portable forges, grinding wheels with frameworks, manicure or pedicure sets, and goods of heading 8209, this Chapter covers only articles with a blade, working edge, working surface or other working part of:

(a) base metal;

(b) metal carbides or cermets;

(c) precious or semi-precious stones (natural, synthetic or reconstructed) on a support of base metal, metal carbide or cermet; or

(d) abrasive materials on a support of base metal, provided that the articles have cutting teeth, flutes, grooves, or the like, of base metal, which retain their identity and function after the application of the abrasive.

**Chapter Heading 8201:**

Tariff Item	Description of goods	Unit
(1)	(2)	(3)
8201	Hand tools, the following: spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry.	
8201 10 00	- Spades and shovels	kg.
8201 30 00	- Mattocks, picks, hoes and rakes	kg.
8201 40 00	- Axes, bill hooks and similar hewing tools	kg.
8201 50 00	- Secateurs and similar one-handed pruners and shears (including poultry shears)	kg.
8201 60 00	- Hedge shears, two-handed pruning shears and similar two-handed shears	kg.
8201 90 00	- Other hand tools of a kind used in agriculture, horticulture or forestry	kg.



From the above, it is clear that 'Base metals and articles of base metals' only are covered under Section XV of the Customs Tariff Act. As per Section Note 3 'Base metals' means 'iron and steel, copper, nickel, aluminium, lead, zinc, tin, tungsten, molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium(columbium), rhenium and thallium'. Also, Chapter Note 1 of 'Chapter 82- Tools, implements, cutlery, spoons and forks of base metal; and parts thereof base metal' states that this Chapter covers only articles with a blade, working edge, working surface or other working part of base metal, metal carbides or cermets, Precious or semi-precious stones on a support of base metal, abrasive material on support of base metal. Thus those articles which are made of base metals or on support of base metal are only covered under Chapter 82 of the customs Tariff Act. As apparent from the submissions of the Appeal itself the article under consideration is made only of plastics/polypropylene.

6.4 Further, the Customs Tariff is based on the Harmonious System of Nomenclature(HSN) which is a dependable guide for interpreting the customs tariff as held by Supreme court in the case of L.M.L. Ltd Vs. Commissioner of customs [2010 (258) ELT 321 (S.C.)]. The Explanatory Notes 'General' to Chapter 82 states:

#### GENERAL

This Chapter covers certain specific kinds of base metal articles, of the nature of tools, implements, cutlery, tableware, etc., which are excluded from the preceding Chapters of Section XV, and are not machinery or appliances of Section XVI (see below), nor instruments or apparatus proper to Chapter 90, nor articles of heading 96.03 or 96.04.

This Chapter includes :

- (A) Tools which, apart from certain specified exceptions (e.g., blades for machine saws), are used in the hand (headings 82.01 to 82.05).
- (B) Tools of two or more of the headings 82.02 to 82.05, put up in sets for retail sale (heading 82.06).
- (C) Interchangeable tools for hand tools, for machine-tools or for power-operated hand tools (heading 82.07), knives and blades for machines or mechanical appliances (heading 82.08) and plates, sticks, tips and the like, for tools (heading 82.09).

.....

Tools, cutlery, etc., do not in general fall in this Chapter unless the blade, working edge, working surface or other working part is of base metal, of metal carbides (see the Explanatory Note to heading 28.49) or of cermets (see the Explanatory Note to heading 81.13); provided, however, that this condition is met, they remain in the Chapter even if fitted with non-metallic handles, bodies, etc., of a weight exceeding that of the metallic working part (e.g., a wooden plane with a metal blade).

The Chapter also, however, includes tools if the working part is of natural, synthetic or reconstructed precious or semi-precious stones (e.g., black diamonds) fitted onto a support of base metal, metal carbides or cermets; further, in certain cases, the working part may be of base metal fitted or covered with abrasive materials.

There are exceptions to these general rules in the case of certain articles specifically mentioned in the headings (e.g., portable forges and grinding wheels with frameworks). Moreover, very few abrasive tools remain in the scope of the Chapter (see the Explanatory Notes to headings 82.02 and 82.07), since heading 68.04 covers grinding wheels and the like (including grinding, sharpening, polishing, tracing and cutting wheels, heads, discs and points), of natural stone, of agglomerated abrasives, or of ceramics, with or without cores, shanks, sockets, axles or the like of other materials, but without frameworks.

Interchangeable tools of base metal, for hand tools, for machine tools or for power-operated hand tools, which are excluded from this Chapter because their working part is not one of the materials specified in Note 1, generally fall to be classified according to the constituent material of the working part, e.g., those of rubber (Chapter 40), leather (Chapter 42), furskin (Chapter 43), cork (Chapter 45), textile fabric (Chapter 59), ceramic materials (heading 69.09). Brushes for use on machines are classified in heading 96.03.

From the general notes as above, it follows that only those tools, implements, etc made of base metals are classifiable under this Chapter of the Tariff and tools whose working part is not one of the base metals are to be classified according to the constituent material of the working part.

6.5 In the case at hand, the product, 'Agricultural Seedling Tray', is made up of Plastics and not of any of the base metals specified in the section notes as stated by the Appellant themselves. The contention of the Appellant is that the trays are used for germination of paddy and therefore, the product is to be considered as a 'Hand tool used for agriculture' and classified under 8201. We find that Chapter 82 covers only those tools made of base metals; The construction of description 8201 is a typical one attracting the application of the principle of 'ejusdem generis' for interpretation of the phrase "Other tools of a kind used in agriculture,..". The 'ejusdem generis' principle specifies that "general terms following particular expressions take their colour and meaning as that of the preceding expressions". Applying this, we find that in Chapter 8201, the specifics are spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and the subsequent phrase "and other tools




of a kind used in agriculture..." is a general expression following the specific enumeration. The specifics mentioned are all of which has a working edge as required for a tool to be classified under this chapter. Thus only those hand tools which are of base metal and has a working edge, used as a hand tool in agriculture merits classification under this residual entry. The product at hand is neither made of base metal nor has a working edge as required of a tool under this chapter and therefore the product is not to be classified under Chapter 8201.


6.6 The Appellants in the grounds of appeal have stated that the seedling trays, though made of plastics are used only for agriculture and therefore is to be considered as a hand tool of a kind used in agriculture and classified under 8201 with tax exemptions. Classification under a Heading is to be governed only by the relevant Tariff-entries, Heading-description, etc. Heading 8201, as discussed above, do not envisage that all items used for agriculture would be covered therein but specifically as given in the General Explanatory Notes to Chapter 82, mentioned above, are to be classified based on the constituent material it is made of. We find that the lower authority has considered the above and accordingly pronounced the Ruling. We do not find any reason to interfere with the same.

7. In view of the above we, Pass the following Order:

**ORDER**

For reasons discussed above, we do not find any reason to interfere with the Order of the Advance Ruling Authority in this matter. The subject Appeal is disposed of accordingly.

  
62  
(T.V.SOMANATHAN)  
Commissioner of state Tax  
TamilNadu /Member (AAAR)

  
6 Feb  
(C.P.RAO)  
Pr. Chief Commissioner of GST & Excise  
Chennai Zone/Member (AAAR)

To  
M/s. Saro Enterprises,  
No. 26, First Reddy Street,  
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3. The Joint Commissioner(ST) / Member(FAC), O/o the Authority for Advance Ruling, Tamil Nadu, Chennai-6.
4. The Joint Commissioner (CCO) / Member, Chennai - 600 034.
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6. The Commissioner of GST & C.Ex., Chennai South Commissionerate
7. Master File/ Spare-2