



BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING

For the State of Andhra Pradesh (Goods and Service Tax)

(Office at O/o Chief Commissioner of State Tax, Govt. of A.P., D NO 5-56, Block-B,
R.K.Spring Valley Apartment, Bunder Road, Edupugallu, Vijayawada,
Andhra Pradesh – 521144)

Present:

Sri. B.HARERAM, (Member)(Central Tax)

Sri. J.SYAMALA RAO, (Member)(State Tax)

The 12TH day of April, 2019

Order /AAAR/AP/ 02(GST)/2019

In

Application No.AAAR/01(GST)/2019

1	Applicant	M/s JAYALAKSHMI TOBACCO COMPANY (GSTIN:37BIWPS7726L1Z2) D.No. 11-60-39, WAIZULLA SAHEB STREET, VIJAYAWADA
2	Jurisdictional Officer	Assistant Commissioner, Indrakeeladri Circle
3	Present for the Applicant	Sri.Vallabhaneni Mohan Rao,
4	Present for the Jurisdictional Officer	Remarks Received
5	Date of Personal hearing	12.04.2019

ORDER:

M/s JAYALAKSHMI TOBACCO COMPANY, (hereinafter also referred as an applicant), having GSTIN:37BIWPS7726L1Z2 are commission agents dealing with tobacco leaves. The applicant has various business activities, such as procuring tobacco leaves from farmers as well as from traders and acting either as commission agent or as seller as the case may be.

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The applicant has filed an application in Form GST ARA-01, dated 14.03.2018, for seeking advance ruling on 'tax liability for certain business activities'. The questions are as follows:

- 1) Issue Raised by the applicant** Will GST be applicable on sale of tobacco leaves received from farmers made by Commission Agent in an auction and his turnover is less than Rs.20 Lakh?

State Member View GST is not applicable on, receipt of tobacco leaves by the applicant from farmers as a commission agent on behalf of farmer (Agriculturist), provided the aggregate turnover which is including the value of the tobacco leaves and the commission received is not exceeded the threshold limit i.e Rs.20 lakhs

Central member View As per entry No.24 of Notification No.11/2017-Central Tax (Rate), dated : 28.06.2017, Commission Agent dealing with agriculture produce like tobacco attracts 'Nil' rate of duty

- 2) Issue Raised by the applicant** In case, there is GST in the above situation, who has to pay the tax?

State Member View Not Applicable with reference to the Issue No. 1
Central member View Not Applicable

- 3) Issues Raised by the applicant** Will reverse charge provisions applicable for tobacco leaves or not?

State Member View: As per S.No 3 of Notification 04/2017 – Central Tax (Rate), Dated : 28th June 2017, Reverse Charge is applicable on tobacco leaves on receipt of the goods, by a registered person from agriculturist.

Central member View :

The reverse charge provision has not been notified yet

- 4) Issues Raised by the applicant** Who has to pay GST when commission agent sell the tobacco leaves received from trader in an auction? Can commission agent collect GST from buyers and pay or not?

State Member View The transaction referred to in falls under 'acting as an agent' on behalf of other taxable persons, who makes taxable supply of goods as an agent. As per clause VII of Section 24 of CGST/ APGST Act'2017, the Commission Agent has to get registered under the Act and has to pay GST when sell the tobacco leaves received from trader in an auction, and can collect GST from buyers

Central member View

Please refer to Issue No.1. The activity is exempted from GST.

5) Issues Raised by the applicant The Commission Agent receives tobacco from farmers and sell them within the state. He takes commission from farmers for his services and it is less than Rs. 20 Lakh in a year. Will the commission Agent is liable to collect GST in this situation.

State Member View: As per the proviso 3 of schedule I, read with Section 7 of CGST/ APGST Act'2017, if his aggregate turnover including the value of commission and the value of the tobacco leaves is less than Rs.20 lakhs, he need not be registered and the commission agent shall not collect any GST. If the aggregate turnover is more than Rs.20 lakhs, the commission agent shall be registered and liable to collect GST, but the commission received from the farmer for the services rendered are exempted vide S.No. 24, Heading No.9986, clause (g) 'services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce', of Notification No.11/2017 - Central Tax (Rate), Dated : 28th June,2018

Central member View:

As the above service is exempt from tax by the entry No: 24 of Notification No.11/2017-Central Tax (Rate), hence the commission agent is not liable to collect GST

After having several deliberations basing on the material on record, the members of Authority for Advance Ruling expressed different views on the issues raised by the applicant and found no consensus to pronounce any ruling.

As per sub-section 2 of section 98, CGST / AP GST Act,2017, Authority for Advance Ruling referred the case to the Appellate Authority for Advance Ruling for further action on the issues raised by the applicant, vide letter dt.09.6.2018.

The applicant attended personal hearing on 14.12.2018 and requested time for submission of additional information.

Subsequently, M/s. Jayalakshmi Tobacco Company in their letter dated 13-02-2019 stated that they had applied for cancellation of registration and they no longer required any ruling and requested to consider their application for Advance Ruling as withdrawn.

In light of the plea that the applicant himself applied for cancellation of his registration under GST, and the jurisdictional authority confirmed the cancelation in Form REG. 19 dt 27/2/2019 with effect from 31.01.2019, and as the ruling is binding only on the applicant and the jurisdiction authority, the Appellate Authority for Advance Ruling, disposed the appeal as dismissed.

Sd/- J.Syamala Rao I.A.S.,
Chief Commissioner (State Taxes)
Member

Sd/- B. Hareram, I.R.S.,
Chief Commissioner (Central Taxes)
Member

To:
M/s JAYALAKSHMI TOBACCO COMPANY
(GSTIN:37BIWPS7726L1Z2) D.No. 11-60-39,
WAIZULLA SAHEB STREET, VIJAYAWADA.

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Vine 12/4/2019


Assistant Commissioner (ST)
Registrar AAAR (AP).

Assistant Commissioner (State Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.