NATION TAX MARKET	**KERALA AUTHORITY FOR ADVANCE RULING** **GOODS AND SERVICES TAX DEPARTMENT** **TAX TOWER, THIRUVANANTHAPURAM**	KERALA GST State Goods & Services Tax

BEFORE THE AUTHORITY OF : Shri. Jomy Jacob IRS &

: Shri. Mansur M.I.

Legal Name of the applicant	M/s. Spice More Trading Company
GSTIN	32ABYFS2267G1ZS
ARN	AD320125003910T
Address	11, KPXIV, Vattathara Buildings, Kumily Munnar Road, Kumily, Idukki, Kerala-685509.
Advance Ruling sought for	1. GST Applicability on Commission: Whether the commission earned by the cardamom auction company for facilitating the sale of cardamom is subject to GST. 2. GST Rate: If GST is applicable, please confirm the GST rate that should be applied to the commission earned. 3. Exemptions: Any specific exemptions or provisions under the GST laws that might apply to our situation as an intermediary in the sale of agricultural produce.
Date of Personal Hearing	02/04/2025
Authorized Representative	Shri. Edwin Joseph John, Partner

ADVANCE RULING No.KER/03/2025 Dated 02.04.2025

1. M/s. Spice More Trading Company, 11, KPXIV, Vattathara Buildings, Kumily-Munnar Road, Kumily, Idukki, Kerala-685509 (herein after referred to as "the applicant") is a partnership firm, engaged in the business of conducting auctions for cardamom, licensed by the Spices Board under Ministry of com-

AUTHORITY FOR ADVANCE RULING GST KERALA

merce and industry. The applicant is authorized to conduct cardamom auctions as per the Spices Board's schedule, in accordance with the Cardamom (License and Marketing) Rules, 1987, and subsequent amendments.

2. At the outset, it is noted that the provisions of the Central Goods and Services Tax Act, 2017 *(herein after referred to as "CGST Act")* and the Kerala State Goods and Services Tax Act, 2017 *(herein after referred to as "KSGST Act")* are the same except for certain specific provisions. Accordingly, any reference herein after to the CGST Act, Rules and Notifications shall also include the corresponding provisions under the KSGST Act, Rules and the Notifications issued there under.

3. The applicant has sought an advance ruling under section 97(1) of the CGST/KSGST Act, 2017 on the question of applicability of GST on the commission received for conducting cardamom auctions.

4. Contentions of the Applicant.

4.1. The applicant submits that they function as commission agents involved in cardamom auctions. Referring to Notification No.12/2017-CT(Rate) under Heading 9986 clause (g), which exempts *"Services by any Agriculture Produce Marketing Committee or Board or services by a Commission Agent for sale or purchase of agricultural produce"*, the applicant contends that the commission collected from auction sale of cardamom should be exempted from GST under this provision. The applicant further explains that cardamom is an agricultural produce and that its post-harvest processing-include drying, cleaning and grading- does not alter its essential characteristics. These processes, the applicant claims, merely make the product marketable.

4.2. The applicant cites the definition of "agricultural produce" under Notification Number 12/2017 clause (d) "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 product, on which either no further processing is done or such processing is

AUTHORITY FOR ADVANCE RULING GST KERALA

done as usually done by the cultivator or producer, which does not alter its essential characteristics but makes it marketable for primary market."

5. Comments of the Jurisdictional Officer

As required under section 98(1) of the CGST Act, the application was forwarded to the jurisdictional officer. The officer submitted that the applicant performs functions characteristics of an auctioneer rather than a commission agent. Therefore the officer opines that the services provided do not fall under Entry No. 54 (g) of Notification No.12/2017 CT (Rate) and are not eligible for exemption and the commission earned is taxable under GST.

6. Personal hearing

The applicant was granted a personal hearing on 02/04/2025. Shri. Edwin Joseph John, Partner of the applicant firm appeared and reiterated the contentions stated in the application. He requested that a ruling be issued on the basis of the written submissions and the oral representations made during the hearing.

7. Discussion and conclusion.

7.1 We have examined the statement of facts, the submissions made during virtual hearing. The issue to be decided is whether GST is applicable on the commission earned by the applicant for conducting cardamom auction. The questions raised falls within the scope of Section 97 (2)(b) and (g) of the CGST Act, 2017, and hence admitted. During the hearing the applicant admitted that they are currently paying GST on the auction commission, but wanted clarity in the matter with reference to Entry 54(g) of the exemption Notification No. 12/2017 -Central Tax (Rate) dated 28-6-2017. Hence, specifically the issue to be decided is weather the commission received on the sale of cardamom by the auctioneer falls under entry 54(g) of the exemption Notification No. 12/2017 - Central Tax (Rate)dated 28-6-2017.

AUTHORITY FOR ADVANCE RULING GST KERALA

7.2 The applicant is a registered auctioneer licensed by the Spices Board, under Ministry of Commerce and Industry. A licenced auctioneer in the cardamom performs key functions including:

- Procurement of cardamom from growers and traders at designated pooling centres.
- Quality Sorting and grading.
- Conducting physical and e-auctions, providing as platform for buyers and sellers.
- Price Discovery through competitive bidding
- Facilitates legal and Transactional formalities related to cardamom sales.
- Charging a regulated of 1% commission as per Cardamom (Licensing & Marketing) Rules,-1987.
- Managing Infrastructure such as warehouses and auction centres.

7.3 As cardamom auctioneers who are granted license by the Spices Board under Cardamom (Licensing and Marketing) Rules of 1987, the applicant oversees the process of facilitating the sale and distribution of cardamom. Cardamom growers and traders bring the cardamom to auction centres, where sorting and grading procedures ensure the quality and diversity of the lots available for bidding, a process called pooling. In case of e-auction, through logins provided by Spices Board, the auctioneer orchestrates the bidding process, buyers through their logins provided by Spices Board bid for their desired cardamom lots, based on the samples provided by the auctioneer at the auction centre.

AUTHORITY FOR ADVANCE RULING GST KERALA

7.4 Going by the nature of activities performed by the applicant, they do not merely cause the sale of goods on behalf of their clients, the cardamom growers and traders. They provide necessary storage and auction facilities including electronic weighing machine and moisture meters for pooling the cardamom in places convenient to the farmers. They pool cardamom from different origins, grade them and convert them to lots for auction. They draw samples from these lots for the purpose of inspection of Spice Board licenced dealers to inspect at the auction house of the Spices Board. They have to maintain accounts and registers as mandated by the Spices Board. The auctioneer shall ensure that the cardamom pooled in an auction is free from any adulteration, contamination and artificial colouring. They undertake the complete process of auction of the cardamom and upon completion of the auction, the sales consideration is received not by the sellers but by taxpayer-auctioneer. Thereafter, taxpayer-auctioneer will make payments to the growers/trades for the cardamom supplied to them after deduction of the commission. They do the billing work and collection of sale proceeds on behalf of their clients and facilitate the successful bidders to lift the cardamom. As per rule 10(1)(j) of the Cardamom (Licensing and Marketing) Rules, 1987"*the auctioneer shall not charge more than one per cent of the sale price as commission for the services rendered by him.* The taxability of this commission is the issue raised in this application.

7.5 The applicant claims that they fall under the definition of a "commission agent" and seeks exemption under Entry Number 54(g) of Notification Number 12/2017(CGST Rate) dated 28.06.2017. Entry Number 54(g) provides that services by way of "*services by any Agricultural Produce Marketing Committee or Board or services provided by as commission agent for sale or purchase of agricultural produce.*"

7.6 Sub section 5 of section 2 of the CGST Act 2017 and corresponding section of the KSGST Act, it provides that:- **"agent"** means a person, including a factor, broker, **commission agent**, arhatia, del credere agent, and **auctioneer**

AUTHORITY FOR ADVANCE RULING GST KERALA

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"..

7.7 However, an auctioneer is specifically defined under the Cardamom (Licensing and Marketing Rules, 1987 and operated under a license issued by the Spices Board. The term "auctioneer" is also distinct from "commission agent" under sub section 5 of Section 2 of the CGST Act 2017, though both are type of agents. In the present case, the applicant is legally an auctioneer having specific e-auction License Number MKT-AUC/NSWS/02/2022. Therefore, the applicant can be ascertained as an auctioneer undeniably.

7.5 On examining Entry Number 5 of Notification Number 11/2017 (CGST Rate) dated 28.06.2017, it is noted that it includes:

- Services of commission agents, commodity brokers and auctioneers and all other traders who negotiate whole sale commercial transactions between buyers and sellers, for a fee or commission.
- Services of electronic whole sale agents and brokers.
- Services of whole sale auctioning houses

7.6 The express inclusion of "auctioneers" in Entry number 5 of the said Notification indicates that their services fall under the taxable category, regardless of any general exemptions under Notification.No. 12/2017.

.7.7 Upon verification of Entry 54(g) of the exemption notification, it appears that the exemption applies only to commission agents. In agriculture, a primary market is where producers, like farmers, directly sell their crops and livestock to initial buyers, such as traders, wholesalers, or processing units. The commission agent appearing in Entry 54(g) has to be understood with reference to a primary agricultural market where the farmers sell their produce through a commission agent to wholesalers generally in as –is where- is condition. But an auctions house, as stated paras 7.2, 7.3 and 7.4 above, caters to both farmers

AUTHORITY FOR ADVANCE RULING GST KERALA

and traders, provides a wide range of services for better price discovery than what is provided by a conventional commission agent.

7.8 As regards the eligibility to the exemption under S1.No 54(g) of Notification No 12/2017 Central Tax (R) dated 28.06.2017, it is seen that the exemption is available to the services provided by a commission agent for sale or purchase of agricultural produce. The respondent company has in effect argued that the words 'auctioneer' and 'commission agent' are interchangeable and the reference to 'commission agent' in Entry SI.No 54(g) of Notification No 12/2017 Central Tax (R) can include even an auctioneer. This Authority are not impressed by this argument. It is trite law that exemption notifications are to be strictly interpreted. A notification has to be interpreted in the light of the words employed by it and not on any other basis. In the case of Entry SI. No 54(g) of Notification No 12/2017 Central Tax (R), the exemption given is to the APMC or Board or Commission Agent. As mentioned by us earlier, a commission agent and an auctioneer are no doubt mercantile agents but the functions performed by them are vastly different.

7.9 Further, as per the "Explanatory Notes to the Scheme of Classification of Services" the SAC Code 9986- *Support services to agriculture, hunting, forestry, fishing, mining and utilities*, more specifically 99861-*Support services to agriculture, hunting, forestry, and fishing 998611 Support services to crop production* includes:

i. services to improve the propagation quality of the seed, including treatment of genetically modified seeds; removal of non-seed materials, undersized, mechanically or insect-damaged and immature seeds; removal of seed moisture to a safe level for seed storage; drying, cleaning, grading and treating of seeds to be marketed;

ii. post-harvest crop services such as preparation of crops for primary markets, cotton ginning services;

iii. Other support services to crop production like tilling of fields preparatory to planting; planting, cultivation and fertilization of crops; spraying, including from the air;

AUTHORITY FOR ADVANCE RULING GST KERALA

iv. pest control for agriculture; trimming of fruit trees and vines; transplanting and thinning of crops; harvesting;

v. provision of agricultural machinery with crew and operators; operation of irrigation systems for agricultural purposes;

vi. other services necessary for agricultural production; Crop production services on inputs owned by others like operation of a crop production unit on a fee or contract basis.

Hence by the nature of the services mentioned under SAC 9986(relating to entry 54 of exemption Notification.No. 12/2017) sales commission and auction commission will not get classified under this SAC code. Sales commission and auction commissions rightly falls under SAC codes 996111- "*Services provided for a fee/commission or contract basis on wholesale trade* or 996211- *Services provided for a fee/commission or contract basis on retail trade*" (relating to Entry 5 of Notification Number 11/2017 (CGST Rate).

7.10 Thus, based on the foregoing discussions, the applicant's services fall squarely under Entry No.5 of the Notification Number 11/2017/CT (Rate), Therefore, where a specific entry is available under Entry Number 5 of it supersedes the general entry of the Notification 12/2017(CGST Rate) and the commission earned by the applicant is liable to GST at the applicable rate.

Given the observations stated above, the following rulings are issued;

RULING

Question No. 1. GST Applicability on Commission: Whether the commission earned by the cardamom auction company for facilitating the sale of cardamom is subject to GST?

RULING: Yes, the commission is taxable by virtue of entry 5 of the Notification Number 11/2017/CT (Rate)

AUTHORITY FOR ADVANCE RULING GST KERALA

Question No. 2. GST Rate: If GST is applicable, please confirm the GST rate that should be applied to the commission earned.

RULING: The rate of tax would be 9% CGST AND 9% SGST.

Question No. 3. Exemptions: Any specific exemptions or provisions under the GST laws that might apply to our situation as an intermediary in the sale of agricultural produce.

RULING: No ruling

OFFICE OF THE COMMISSIONER STATE G.S.T.D KERALA
THIRUVANANTHAPURAM

Jomy Jacob, IRS
Additional Commissioner of Central Tax
Member

Mansur M.I.
Joint Commissioner of State Tax
Member

To,

M/s. Spice More Trading Company,
11, KPXIV, Vattathara Buildings,
Kumily Munnar Road, Kumily,
Idukki, Kerala-685509.

Copy submitted to:

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin-682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.

AUTHORITY FOR ADVANCE RULING
GST KERALA

3. The Commissioner of Central Tax and Central Excise, Cochin Commissionerate.

Copy to :

1. The Additional Commissioner, TPS, HQ, Thiruvananthapuram.
2. The Deputy Commissioner, ITMD, Thiruvananthapuram.
3. Tax payer services Circle, Kattappana.
4. The Superintendent, Central Tax, Idukki Division, Vandiperiyar Range.

AUTHORITY FOR ADVANCE RULING
GST
KERALA