



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Edupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Additional Commissioner of State Tax (Member)
2. Sri. M. Sreekanth, Joint Commissioner of Central Tax (Member)

AAR No.30/AP/GST/2019 dated:10.12.2019

1	Name and address of the applicant	M/s Kalagarla Suryanarayana Son, E Block 39, PW Market, Vizianagaram-535001, Andhra Pradesh.
2	GSTIN	37ACMPK4820E1ZO
3	Date of filing of Form GST ARA-01	21.05.2019
4	Date of Personal Hearing	18.09.2019
5	Represented by	Sri K.S.N. Gupta
6	Jurisdictional Authority – State	Assistant Commissioner (ST) Vizianagaram West Circle, Vizianagaram Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) applicability of a notification issued under the provisions of this Act; and e) determination of the liability to pay tax on any goods or services or both;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub - section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s Kalagarla Suryanarayana Son, (hereinafter referred to as applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same



provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

3. Brief Facts of the case:

M/s Kalagarla Suryanarayana Son, E-Block 39, PW Market, Vizianagaram-535001, (hereinafter referred to as the Applicant) are wholesale dealers dealing in Tamarind, Tamarind seed, oil seeds, pulses and cereals.

The applicant had filed an application in form GST ARA-01, Dt:21.05.2019, by paying required amount of fee for seeking Advance Ruling on the following issues, as mentioned below

4. Question raised before the authority:

Whether Tamarind Seed attracts Nil Rate of Tax under HSN Code 1209(Forest Trees Seed) or Not.

On Verification of basic information of the applicant, it is observed that the applicant falls under State jurisdiction, i.e. Assistant Commissioner (ST), Vizianagaram West Circle, Vizianagaram Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities too, to offer their remarks as per the Section 98(1) of CGST /APGST Act 2017.

In response, no remarks are received from the jurisdictional officer concerned regarding whether there are any proceedings lying pending or passed relating to the applicant on the issue, for which the Advance Ruling sought by the applicant.

5. Record of Personal Hearing:

Sri K.S.N. Gupta, the proprietor of the firm appeared for Personal Hearing on 18.09.2019 and reiterated the submission already made in the application.

6. Applicants Interpretation of Law and Facts:

The applicant submits the following regarding the applicability of the rate of tax of tamarind seed.

1)The Government of India, Ministry of Finance, Department of Revenue issued a Notification

No. 2/2017 Central Tax (Rate) Dated. 28 June 2017, Under CGST Act. In the said notification, Serial Number 86 of the Schedule is specified as under.



Sl.No	Chapter / Heading/ Sub-Description of Goods Heading/ Tariff Item	Description of goods
86	1209	Seeds Fruit and spores, of a kind used for sowing

In this schedule it is placed in the category of "Nil" rated.

2) Chapter 12 of the Harmonized system of Nomenclature tariff specified as under.

H.S.Code	Item Description
1209	Seeds, Fruit and spores, of a kind used for Sowing

Point number 3 of the Notes to the chapter 12 of the HSN Tariff explained the entry of HS Code 1209 as under.

"3. For the purposes of heading 1209 beet seeds, grass and other herbage seeds, seeds of ornamentals flowers, vegetable seeds, seeds of forest trees, seeds of fruit trees, seeds of vetches (Other than those of the species vicia faba) or of lupines are to be regarded as 'Seeds of a kind used for Sowing'."

The description in HSN is very helpful in deciding the classification of the Product. The Hon'ble Supreme Court, in the case of "Wood crafts products Ltd., 1995 (77) ELT 23(SC) has held that the description in HSN Explanatory notes has persuasive value. The Supreme Court has observed in para 12 as follows.

"We are of the view that the Tribunal as well as the High Court fell into the error of Overlooking the fact that the structure of the central excise Tarff is based on the internationally accepted nomenclature found in the HSN and, therefore, any dispute relating to tariff classification must, as far as possible, be resolved with reference to the nomenclature indicated by the HSN unless there be an express different intentions indicated by the central excise Tariff Act, 1985 itself. The definition of a term in the ISI Glossary, which has different purpose, cannot, in case of conflict, override the clear indicatory of the meaning of an identical expression in the same context in the HSN....."

3) Tamarind Tree is a forest Tree:

i) Indian Forest Act, 1927 defines 'Forest Produce' as under:

Section 2(4) of Indian Forest Act, 1927: Forest produce includes.



- a) *The following whether found in, or brought from, a forest or not, that is to say timber, charcoal, caoutchouc, catechu, wood oil, resin, natural varnish, bark, lac, mahua flowers, Mahua seeds, 3 (Kuth) and myrabolams, and*
- b) *The following when found in, or brought from forest, that is to say.*
- i) *Trees and leaves, flowers and fruits, and all other parts or produce not herein before mentioned, of trees,*
 - ii) *Plants not being trees (including grass, creepers, reeds and moss) and all parts or produce of such plants.*
 - iii) *Wild animals and skins, tusks, horns, bones, silk, cocoons, honey, and wax, and all other parts or produce of animals, and,*
 - iv) *Peat, surface Oil, rock and minerals, (including limestone laterite, mineral oils, and all products of mines and quarries.*
- c) *Such other produce as may be prescribed."*

The applicant claims that as per the above definition, the trees, Plants, leaves, fruits, seeds. etc., whether founding, or brought from a forest are treated as forest produce.

- ii) The Government of India declared forest products which are obtainable form forests. Timber is main product of forests. Apart from timber, we are getting so many produces from forest. These are recognized as minor products. Those are grouped in nine categories.

1. Grasses, Bamboos and canes
2. Tans and Dyes
3. Oil
4. Gums and resins
5. Fibers and flosses
6. Leaves
7. Drugs, Spices and Poisons
8. Edible products
9. Animal Products.

Among the above groups of products item No. 8 i.e. Edible products are described as under: Fruits, flowers, leave or roots of various species provide edible products. Mango, bel, ber Jamus, Khirni, Phaslar, Sitaphal, etc., are important fruits obtained from the forests. Among the Kernels cashewnut, akhrot or walnut, achar, chilgoza and Kinal are important.

Amla, anar, imli, Karaunda, Munga, Kachnar, Kaith, Mashroom, Zimikand, Guchchi, etc., are important products used as pickles are vegetales. Palmgrah, plam, Mahan, Corolla are used to obtain liquor and their seeds are eaten. Tejpatra, used for flavoring curries are leaves of a small evergreen tree.



In the preceding para, in the first line, it is mentioned "Imli" which is the nomenclature of Tamarind in Hindi. It is treated as forest product by the Government of India.

Further, it is submitted that the Government of Andhra Pradesh, also declared Tamarind as forest produce.

As per the powers vested in the Governor of Andhra Pradesh vide section 28-G of the Andhra Pradesh forest Act 1967, (Act 1 of 1967) in its application to the scheduled Areas in the Andhra Pradesh made A.P. Preservation of Private Forest Rules, 1978. In the above mentioned rules, Rule 2 is as under.

Rule 2: In these rules unless the context otherwise requires-

- a) "Prohibited Trees" shall mean the trees specified in schedule —I
- b) "Reserved trees" Shall mean, the trees, specified in schedule —II

Items specified in schedule —I is as under

1. Vepa (Azadirakta Indica)
2. Ippa (Madhuka Latifoliar)
3. Mamidi (Mangifera Indica)
4. Kunkudu (Sapindus Enaginatus)
5. Mushti (Strychnos Nuxvomica)
6. Chinta (Tamasindus Indica).....

In the above description, Item number 6 i.e. "Chinta" is the Local name of Tamarind. Therefore, as per the Indian Forest Act, 1927 and the Andhra Pradesh Forest Act, 1967, Tamarind Tree is declared as forest tree. According to the Andhra Pradesh preservation of Private Forest Rules 1978, a Product or a tree specified in the schedules to the Rules, whether those are produced in forest area or other than forest area, all rules and regulations are applicable as if those are forest products.

According to explanations given in the preceding paras, it is clear that Tamarind trees are forest trees. Seeds of Tamarind trees are nothing but seeds of forest trees which covered under HSN code 1209 i.e. seeds, fruit and spores, of a kind used for sowing. Hence forth Point No. 3 of the notes to the chapter 12 explained that the items covered under the HSN code 1209 are to be regarded as seeds of a kind used for sowing. Therefore, seeds of forest trees irrespective of their usage, shall be treated as seeds of a kind used for sowing purpose which attracts "Nil" rate under the central goods and services tax Act, 2017/ State GST Act 2017/ Integrated Goods and Services Tax Act, 2017.



The applicant further submitted that the HSN code 1209 contained another item, seeds of fruit trees (Other than spices). Tamarind known as in Local Indian languages “Chinta pandu”. Hence, Tamarind can also be called as the fruit of Tamarind Tree and the seeds of Tamarind are known to be as seeds of fruit trees which attracts “Nil” rate under GST Act.

7. Discussion and Findings:

We have examined the issues raised in the application. The taxability and the applicable rate of tax for the goods and services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined.

In view of the submission made by the applicant we find that the basic issue before us is whether Tamarind Seed attracts Nil Rate of Tax under HSN Code 1209 (Forest Trees Seed) or not. The appellant at the time of Personal Hearing admitted that the tamarind seed/kernel as traded by them is sold to Millers and meant for commercial /industrial purpose. Moreover no certificate or any other document certifying the tamarind kernel/ seed meant for sowing purpose is submitted by the applicant. Coming to the classification issue, CBIC in its FAQs published on HSN code and GST Rates dt: 03.08.2017 gave a clarification that tamarind kernel falls under HSN Code 1207. As per the Notification No.1/2017 – Central Tax (Rate) dt: 28.06.2017 Tamarind kernel falls under the following entry:

Schedule –I (CGST 2.5% + SGST 2.5%)

Sl.No	Chapter / Heading/ Sub- Heading/ Tariff Item	Description of goods
70	1207	Other oil seeds and oleaginous fruits (i.e. Palm nuts and kernels, cotton seeds, Castor oil seeds, Sesamum seeds, Mustard seeds, Safflower (Carthamustinctorius) seeds, Melon seeds, Poppy seeds, Ajams, Mango kernel, Niger seed, Kokam) whether or not broken, other than of seed quality

Tamarind seed is classified under HSN code 1207 and attracts tax rate of 5% (CGST 2.5% + SGST 2.5%)



RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

The Tamarind Seed as referred by the applicant is classified under schedule –I as per Sl.No. 70 of Chapter / Heading/ Sub- Heading/ Tariff Item of 1207 as per the table of Notification No.1/2017 - Central Tax (Rate), Dated: 28th June 2017 and the applicable rate of tax is 5% (2.5% under Central tax and 2.5% State tax).

Sd/- **D. RAMESH**
(MEMBER)

Sd/- **M.SREEKANTH**
(MEMBER)

//t.c.f.b.o//


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

TO

1. M/s Kalagarla Suryanarayana Son, E Block 39, PW Market, Vizianagaram-535001
Andhra Pradesh **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Vizianagaram West Circle, Vizianagaram
Division
(By Registered Post)
2. The Superintendent of Central Tax, Vizianagaram East, Vizianagaram CGST
Division **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax,
Eedupugallu, Vijayawada.
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax &
Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-
530035. **(A.P) (By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

