

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
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Atal Nagar, District-Raipur (C.G.) 492002
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PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur(C.G)

Subject :-Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 sought by M/s Chopra Trading Company, Village-Bemcha, Mahasamund, Dist-Mahasamund, Chhattisgarh, Pin Code-493445, (GSTIN-22AABFC8300J1ZX) on whether the activity of custom milling of paddy is exempted from the purview of Goods and Service Tax? If it is exempted, in such case, under which exemption notification the same is exempted.

Read :-Application dated 04/07/2020 from M/s Chopra Trading Company, Village-Bemcha, Mahasamund, Dist-Mahasamund, Chhattisgarh, Pin Code-493445, (GSTIN-22AABFC8300J1ZX)

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/08/2020

Raipur Dated३६./11/2020

M/s Chopra Trading Company, Village-Bemcha, Mahasamund, Dist-Mahasamund, Chhattisgarh, Pin Code-493445,[hereinafter also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling on

(a) Whether the activity of custom milling of paddy is exempted from the purview of Goods and Service Tax? If it is exempted, in such case, under which exemption notification the same is exempted.

2. Facts of the case:-

The applicant is a registered tax payer under Mahasamund Circle engaged in the manufacturing of Rice, Broken Rice, Rice Bran etc. That the applicant, M/s ChopraTrading Company is a partnership firm registered under the relevant provisions



of the Indian Partnership Act, 1932. The applicant informed that their firm with an intent to serve the citizens and to assist the government has the primary objective of supplying food grains and rice under the public distribution system envisaged by the State of Chhattisgarh. The applicant has a milling unit of 1200MT situated in the district of Mahasamund, Chhattisgarh.

3. Contentions of the Applicant:- The applicant's contention is as under :-

- i. That the applicant, M/s Chopra Trading Company is a partnership firm registered under the relevant provisions of the Indian Partnership Act, 1932. It is submitted that the firm with intent to serve the citizens and to assist the government has the primary objective of supplying food grains and rice under the public distribution system envisaged by the State of Chhattisgarh. It is submitted that the applicant has a milling unit of 1200MT and is situated in the district of Mahasamund, Chhattisgarh.
- ii. That the applicant has been in the said activity of food grains since three decades and has modulated and adapted itself with the constant change in policies and laws of the State Government, issued from time to time.
- iii. That the primary business of the applicant is dependent upon the activity of custom milling of rice. To put it in simple terms, custom milling of rice is a process wherein paddy is provided by the State Government to all the rice millers in the State and in return the millers are directed to process the paddy in to rice and thereafter supply it to the State Government. The State Government subsequently supplies the rice to poor people under the public distribution scheme under the State as well as Central pool.
- iv. That the applicant has to work in accordance with the directions issued by the agency of the State Government, i.e, Chhattisgarh State Marketing Co-operative Federation (CG-MARKFED). The officials of MARKFED direct the applicant to collect and procure paddy from assigned warehouses and thereafter once the paddy is converted into rice, the same has to be supplied to assigned warehouses. The whole process involved with the custom milling of rice involving transportation, storage, conversion, packaging, supply, etc. is a time bound process failing which the applicant is imposed huge penalties.
- v. That for every year applicant enters into an agreement with MARKFED in relation to custom milling of rice. This agreement incorporates the milling capacity, supply period, penalty clauses, dispute resolution clauses etc.
- vi. That the rice is supplied to the State Government of Chhattisgarh in pursuance of the Chhattisgarh Rice Procurement Levy Order issued from time to time and that bank



guarantee is taken by MARKFED from the applicant which is equivalent to the quantity of paddy issued to the applicant.

vii. That the applicant is mandated to undergo the custom milling of rice as rice is an essential commodity under the Essential Commodities Act, 1955 and is therefore regulated by the State Government and that the applicant is only allowed to trade rice in the open market with government restrictions despite having such a huge infrastructure and capacity to do so. That the earning capacity and profit of the applicant is therefore dependent upon its milling capacity as well as the policies of the State Government.

viii. That before the imposition of Goods and Service Tax (GST) in the country, the applicant was not levied any service tax on the custom milling of rice. However, with the introduction of GST, the applicant has been burdened with the imposition of the indirect taxes which is exempted under the various circulars and notifications issued by the authorities from time to time.

ix. That as mentioned above, the applicant is primarily supplying service of custom milling by processing/converting paddy in to rice along with ancillary services such as transportation and packaging which are part and parcel of the main service. The applicant is given a milling incentive as consideration for providing such services which is nothing but a nominal charges for doing this service on behalf of the State Government.

x. That Section 2(30) of the CG GST Act defines 'composite supply' as a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

That further, Section 2(90) of the CG GST Act defines 'principal supply' as the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

That thus, in the instant case of the applicant, the custom milling of rice is the principal supply and the other ancillary activities of packaging, transportation, storage, etc. form part of the composite supply as defined under the CG GST Act.

That custom milling of rice is an activity related to a function entrusted to a panchayat under Article 243C of the Constitution of India, wherein the activity of public distribution system is to be carried out by the panchayats.

That Entry No. 3A of Circular No. 51/25/2018-GST issued by the Government of India of 31/7/2018 states as follows: "Composite supply of goods and services in



which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union Territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution"

That the said entry, i.e. 3A was deliberately amended and the scope and ambit of application of exemption was extended so as to benefit the cases as that of the applicant and that composite supply of goods and services in which the value of supply of goods constituted not more than 25 per cent of the value of the said composite supply provided to the State Government attracted 'NIL' rate in accordance with Entry No. 3A of Circular No. 51/25/2018-GST read with Notification No. 12/2017-Central Tax (Rate), dated 28.6.2017.

That the activity of custom milling is a binding activity imposed on the applicant by the State Government through an agreement. In fact, the applicant is not allowed to trade rice in the open market without government restrictions and is strictly regulated by the policies of the State Government. Further, the applicant carries out the function of public distribution system which is a function entrusted to a Panchayat under the Constitution of India. Therefore, such an activity is squarely covered under the Entry No. 3A of Circular No. 51/25/2018-GST dated 31/07/2018.

4. Personal Hearing:-

Keeping with the established principles of natural justice, virtual personal hearing in the matter was extended to the applicant and accordingly their authorized representative Shri Apurv Goyal, advocate appeared before the authority online, for hearing on 22/10/2020 and reiterated their contention.

5. The legal position, Analysis and Discussion:-

5.1 At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

5.2 The applicant is seeking advance ruling regarding the activity of Custom milling of paddy to rice, claiming tax exemption on the same on the ground that the same is function entrusted to a panchayat under Article 243C of the Constitution of India. The aforesaid contention of the applicant, claiming that they are carrying out the function



of public distribution system which is a function entrusted to a Panchayat under the Constitution of India, is incorrect and appears to be based on misconstrued notion in as much as the applicant is engaged for the aforesaid activity on behalf of the government, in lieu of monetary consideration for purely commercial gains. The applicant neither forms a part of public distribution system of the state government nor panchayat body, therefore its activity of custom milling does not come under entry No. 3A to Notification No. 12/2017- Central Tax (Rate) New Delhi, the 28th June, 2017 as amended vide Notification No. 2/2018- Central Tax (Rate), 25th January, 2018. Accordingly, the claimed benefit of tax exemption, citing reference of Circular No. 51/25/2018-GST dated 31/07/2018 is misplaced and thus we come to the conclusion that the applicants claim of any tax exemption on custom milling of paddy merit rejection.

5.3 In the aforesaid context, it is seen that Circular No. 1/19/2017-GST dated 20.11.2017 from F. No. 354/263/2017-TRU issued by Government of India Ministry of Finance Department of Revenue Tax research Unit, North Block, New Delhi, clarifies on the subject of taxability of custom milling of paddy as under:-

"Representations have been received seeking clarification on whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017.

2. *The matter has been examined. S. No 55 of Notification 12/2017- Central Tax (Rate) exempts 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. Agricultural produce has been defined in the notification to mean, 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. Job work has been defined under section 2 (68) of the CGST Act to mean any treatment or process undertaken by a person on goods belonging to another registered person. Further, under Schedule II (para 3) of the CGST Act, any treatment or process which is applied to another person's goods is a supply of service.*

3. *Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.*



4. In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017 and corresponding notifications issued under IGST and UTGST Acts.

5. GST rate on services by way of job work in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5% vide notification No. 31/2017-CT(R) [notification No. 11/2017-CT (Rate) dated 28.6.17, S.No. 26 refers]. Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).

6. Having regard to the facts and circumstances of the case and discussions as above, we pass the following order:-

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/8/2020

Raipur Dated ...25/11/2020

The ruling so sought by the Applicant is accordingly answered as under:

RULING

The activity of custom milling of paddy carried out by the applicant is not exempted from the purview of Goods and Service Tax and is liable to GST at the rate of 5% (2.5%CGST and 2.5%CGGST).

- sd-
Sonal K. Mishra
(Member)

- sd-
Rajesh Kumar Singh
(Member)



TRUE COPY
[Signature]
25/11/20
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

TRUE COPY
[Signature] 25/11/2020
MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR