

GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/RULING/2018/4
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017-18/AR/21)

Date : 20.03.2018.

Name and address of the applicant	:	M/s. Rishi Shipping (Shri Manoj Bhagvan Mansukhani) Plot No. 113-116, Rishi House, Ward-6, Industrial Area, Gandhidham - Kutch
GSTIN of the applicant	:	24ABCPM8333P1ZA
Date of application	:	26.10.2017
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both; (b) applicability of a notification issued under the provisions of this Act; (c) determination of the liability to pay tax on any goods or services or both; (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
Date of Personal Hearing	:	04.01.2018
Present for the applicant	:	Shri Haresh Vaishnav

The applicant M/s. Rishi Shipping has submitted that the company is a Cargo Handling company operating at Kandla Port Trust under stevedoring license issued by Kandla Port and provide Cargo Handling Service which consists of loading / unloading; providing space for storage and its further forwarding as per direction of importer / exporter. The applicant has submitted that they do not have their own warehouse / godown space. They have occupied the same from Government / Private parties. As a part of their services, they provide service of warehouse / space on rent to their customers, where they store imported agricultural commodities. The applicant has requested for advance ruling on the applicability of GST for invoices raised to their clients for storage charges for storing their imported agri product in godowns at Gandhidham after custom clearance from port & shifted at Gandhidham for storage in their godown at distance of 10/12 kms from Port.

2.1 The Goods & Services Tax and Central Excise Commissionerate, Kutch (Gandhidham), *inter-alia* informed that Para 1(a) of Section 7 of the Central Goods and Services Tax Act, 2017 (herein after referred to as the CGST Act, 2017) defines the supply as “all form of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration

by a person in course or furtherance of business” and there shall be levied a tax called the CGST on all intra-state supplies of goods or services or both as per section 9 of the CGST Act, 2017 and IGST shall be levied on all inter-state supplies as per Section 5 of the Integrated Goods and Services Tax Act, 2017 (herein after referred to as the ‘IGST Act, 2017).

2.2 It has been opined by the Commissionerate that the activity carried out by the warehouse owner appears to be in the nature of renting of immovable property and is taxable in GST and activity carried out by the applicant appears to be in the nature of trading of storage space and the same is taxable, as the same is outside of negative list. Moreover, even if it is considered as “sub-letting”, then also it is classified as renting of immovable property (leasing and rental services – heading 9973)

2.3 It is further informed that exporter of agricultural produce in this scenario can avail exemption only if they make direct agreement with warehouse owner for provision of storage and warehousing services and providing documentary evidence that only agricultural produce are being stored in this warehouse and exemption is claimed by the warehouse owner in their GST return. No such type of exemption is available under GST regime in respect of imported agricultural commodities.

2.4 It is further opined that as per Section 7(1)(a) of the CGST Act, 2017, the activity carried out by the applicant appears to be in the nature of trading of storage space and even if it is considered as ‘sub-letting’, then also it is classified as renting of immovable property falling under the definition of supply of services and CGST shall be levied on all intra-state supplies as per Section 9 of CGST Act, 2017 and IGST shall be levied on all inter-state supplies as per provisions of Section 5 of the IGST Act, 2017. The applicant can avail Input Tax Credit for tax paid by the warehouse owner. Sample copies of invoices issued by the applicant have also been submitted.

3. We have considered the submissions made by the applicant in their application for advance ruling as well as submissions made at the time of personal hearing. We have also considered the opinion, information, documents and views submitted by the Goods & Services Tax and Central Excise Commissionerate, Kutch (Gandhidham).

4. The applicant has requested for advance ruling on applicability of GST for invoices raised to their clients for storage charges for storing their imported agri product in godowns at Gandhidham.

5. On perusal of sample copies of invoices (Invoice No. RS/GR/17-18/027 dated 19.07.2017 and Invoice No. RS/GR/17-18/043 dated 29.07.2017) issued by the applicant, it is observed that the description of service is mentioned as Godown Rent (SAC – 997212) and Goods and Services Tax has been paid @ 18% (CGST 9% + SGST 9% or IGST 18%). The applicant has not submitted anything towards its interpretation of law and / or facts to support that the Goods and Services Tax is not applicable to the aforesaid activity carried out by them.

6.1 It is therefore imperative to examine the nature of service provided by the applicant.

6.2 The applicant has submitted in the application that as a part of the services, it provides service of warehouse / space on rent to the customers, where they (customers of applicant) store imported agricultural commodities. Therefore, an issue arises whether the service of providing warehouse/ space on rent can be considered as 'storage or warehousing' service or 'renting of storage premises'.

6.3 In this regard, we observe that there is difference between 'storage or warehousing' service and 'renting of storage premises' service. The 'storage and warehousing service' provider normally make arrangement for space to keep the goods, loading, unloading and stacking of goods in the storage area, keeps inventory of goods, makes security arrangements and provide insurance cover etc. In a case where a person only rents the storage premises, he does not provide any service such as loading / unloading, stacking, security etc. Mere renting of space cannot be said to be in the nature of service provided for storage or warehousing of goods.

6.4 The applicant has submitted in the application that as a part of their services, it provides service of warehouse / space on rent to their customers, where they (customers of applicant) store imported agricultural commodities. From the nature of service provided by the applicant, as described in the application, it is clear that the applicant only rent the storage premises. Once the storage premises is rented by the applicant to its customers, what use the customer makes of such premises doesn't have any bearing on the nature of service provided by the applicant.

6.5 In the sample copies of invoices (Invoice No. RS/GR/17-18/027 dated 19.07.2017 and Invoice No. RS/GR/17-18/043 dated 29.07.2017) of the applicant, the description of service is mentioned as Godown Rent (SAC – 997212).

6.6 Therefore, taking all these aspects into consideration, we hold that the applicant is required to pay Goods and Services Tax at 18% (CGST 9% + GGST 9% or IGST 18%) for aforesaid activity carried out by them classifiable as 'Rental or leasing services involving own or leased non-residential property' (Service Accounting Code – 997212).

7. In view of the foregoing, we rule as under –

RULING

The service provided by M/s. Rishi Shipping (GSTIN 24ABCPM8333P1ZA) is classifiable as 'Rental or leasing services involving own or leased non-residential property' (Service Accounting Code – 9972) leviable to Goods and Services Tax @ 18%.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad

Date : 20.03.2018.