



**HARYANA AUTHORITY FOR ADVANCE RULING,  
GOODS AND SERVICES TAX,  
HARYANA VANIYA BHAWAN, PLOT NO I-3, SECTOR 5,  
PANCHKULA-134151 (HARYANA)**



**ADVANCE RULING NO.HAR/HAAR/R/2018-19/14**

(In Application No.- 14/2018-19, dated 04.07.2018)

Name & Address of the Applicant	:	M/s Acsen Hyveg Private Limited, Plot No.126, Sector-8, IMT Manesar, Gurgaon-122051, Haryana
GSTIN of the Applicant	:	06AAFCR5721D1ZO
Date of Application	:	04.07.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	(v) Determination of the liability to pay tax on any goods or services or both (vi) Whether applicant is required to be registered
Date of Personal Hearing	:	01/10/18
Present for the Applicant	:	Sh. Shaman Jain, Advocate (POA), Sh. Siva Guru Subramaniam, FCA and Sh. Prabhakar Rao, G.M (Finance).

1. M/s Acsen Hyveg Private Limited, Plot No.126, Sector-8, IMT Manesar, Gurgaon-122051, Haryana [hereinafter referred to as the "applicant"], has submitted that they are in business of processing and selling vegetable seeds and cereal seeds through their dealer network under their brand name in different packing sizes. Sales are effected to dealers through C&F agents or own branches located in various States. Processing of seeds are done in their in house facility in Haryana and Karnataka. That all their packed seeds are meant for sowing purpose only and cannot be used for any human/animal consumption as these materials are treated. That they print this in all their packets under the truthful label; that all their seeds fall under category of seeds for sowing under tariff heading 1209 which falls under zero percent tax slab.

2. Vide letter dt.29.09.2018, the applicant further submitted that they are engaged in the production and supply of Hybrid seeds vegetable and field crops. They have their own Research and Development setup, with a team of 60+ scientists and technicians, through new technologies in crop improvement so that agriculture becomes easier for the farmer community and saving natural resources. The company has research farms located at various parts of the country, to produce various hybrid varieties of seeds with better resistance and yield. The Company engages contract farming to produce and multiply the seeds and process the same at their processing units and packs and sells those seeds to the farmers for sowing.

3. That the applicant has got registered with the GST by virtue of migration from erstwhile VAT to GST. The applicant had registration under erstwhile VAT and Service tax as it was mandated under the said acts as Reverse charge was applicable irrespective of the nature of business for all corporate companies.

**4. Brief description of the Operations**

The Growers/Organisers are identified and the Grower Registration is done through standard procedures and specific Grower code is allotted.

The Company contracts with the farmers for multiplication of the hybrid seeds. The Company provides the male and female traits of seeds to the farmers and the seeds are sown.

- The seeds / seedlings are given to the farmers for sowing at a cost.
- The Field assistants periodically inspect the fields and review the growth of the crops.
- The harvested raw seeds are filled in gunny bags in the presence of Field Assistant and are dispatched to the processing unit with the Production advice to Gurgaon or Bangalore as per requirement.
- Raw seeds are received from the farmers.



- Once raw seeds are received from the farmers, Processing is done at the Manesar and Doddaballapur units.
- The processing is done by feeding the seeds into the processing machinery and the machinery separates the good seeds by using gravity separator.
- Once the processing is done and Quality check is passed the seeds are chemically treated and packed.
- Once seeds are treated, they are ready to be packed and sold. Seeds are packed in different varieties of packets Example in 10 grams packets 20 grams packets, Bulk packing jars etc.
- All the packed seeds are meant for sowing purpose only and cannot be used for any human/animal consumption as these materials are chemically treated.  
>The party prints this in all the packets under the truthful label.
- All the seeds fall under category of Seeds for sowing under Tariff Heading 1209 which falls under zero percent tax slab.

5. The applicant raised following questions on which advance ruling has been sought by them.

- (i) Whether registration is required in case of supply of tax free goods under GST Act?
- (ii) Whether assessee is liable to pay tax under RCM u/s 9(3) of CGST Act, 2017 for transportation services for transporting tax free goods?
- (iii) That if reply to query number (ii) is negative, whether registration is required under GST Act?
- (iv) Whether registration is required under GST Act, 2017 for interstate supply/sales of tax free goods?
- (v) Whether GST registration can be surrendered if we are not liable to pay RCM u/s 9(3) of CGST Act 2017 and not liable to be registered under GST Act?

6.1. In the context of these questions, the applicant further submitted as under:

**a) REGISTRATION FOR COMPANIES HAVING ONLY NIL RATE/EXEMPT SUPPLIES**

22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees: Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues certificate of incorporation giving effect to such order of the High Court or Tribunal.

Explanation-For the purposes of this section –

- (i) the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
- (ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;
- (iii) the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution



**b) Person Not liable for Registration**

23. (1) The following persons shall not be liable to registration, namely:--

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act.

(b) an agriculturist, to the extent of supply of produce out of cultivation of land.

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

**Sec 24 : Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,**

- (i) persons making any inter-State taxable supply;
- (ii) casual taxable persons making taxable supply;
- (iii) persons who are required to pay tax under reverse charge;
- (iv) person who are required to pay tax under sub-section (5) of section 9;
- (v) non-resident taxable persons making taxable supply;
- (vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act
- (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input Service Distributor, whether or not separately registered under this Act;
- (ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;
- (x) every electronic commerce operator;
- (xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and
- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

6.2. That from the above that **Sec 23(1)(a)** specifically exempts persons engaged in the business of **making exempt / nil rate** supplies from registration under the Act. This makes it clear that since there are no taxable supplies made by Company, Ascen Hyveg P Ltd unswervingly fall under the definition of the above referred section. All the supplies made by the Company are sowing seeds which are exempt under the act and there are not taxable supplies."

As regards RCM, it the worth to note that the Section 24 starts with the wordings, "Notwithstanding anything contained in sub-section (1) of Section 22", therefore **Sec. 24 overrides sec 22(1) and not Sec 23**. Sec 23 is independent of Sec 24 and also Sec 24 does not override Sec 23. Hence the liability under Reverse Charge mechanism does not mandate the registration under Sec 24.

Further "Entry 21 of the exemption list in notification no. 12/2017-CT(rate) exempts services provided by a goods transport agency, by way of transport in a goods carriage of –

- (a) agricultural produce;
- (b) ...

6.3. Services provided by a GTA, by way of transport of seeds being agricultural produce is also exempted from GST as the goods are agricultural produce. The Agriculture produce is carried from fields of the farmers to the Processing units and later transported from processing units to the C & F Agents or the Distributors for further onward sale to farmers for sowing. Hence reverse charge on such transportation is also not applicable. Hence with the above Submissions, the Company has filed this Advance Ruling Application to know whether the registration is actually required under the act or not and whether there is any requirement to discharge any liability under reverse charge mechanism towards transportation of the seeds from agricultural fields to the processing units / transportation of the goods from processing units to the selling points.



## RECORDS OF PERSONAL HEARING – 2<sup>ND</sup> PROVISO TO SECTION 98(2) OF CGST/HGST ACT, 2017

7. Personal hearing in the instant case was held on 01.10.2018, which was attended by Sh. Shaman Jain, Advocate, Sh. Siva Guru Subramaniam, FCA and Sh. Prabhakar Rao, G.M (Finance).

### DISCUSSIONS AND FINDINGS OF THE AUTHORITY

8. We have carefully gone through the facts and records of the case. The questions raised by the applicant seeking advance ruling on various points, are taken up, as under:

#### **8.2. Whether registration is required in case of supply of tax free goods under GST Act?**

As per Section 23(1)(a) of CGST Act, 2017, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Service Tax Act shall not be liable to registration subjected to requirement in other section of the Act.

Therefore, when the person is engaged in supply of exempted goods or services or both, which are not liable to be taxed, then such person shall not be liable to be registered under Act.

#### **8.3. Whether assessee is liable to pay tax under RCM U/S 9(3) of the CGST Act, 2017 for transporting tax free goods?**

As per section 24 of the CGST Act, 2017, any person who is liable to pay taxes under reverse charge mechanism would be required to take compulsory registration under this Act. The recipient of goods and/or services is required to pay taxes under reverse charge mechanism on receipt of specified services as specified. Though there are certain goods as specified in the notification in respect of which no tax is payable by the recipient for services under reverse charge mechanism as recipient of services.

As per Entry No. 21 of Notification No 12/2017-CTR as amended time to time, only services provided by a goods transport agency, by way of transport in a goods carriage of certain goods as transported are exempted which are defined below:-

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
21	Heading 9965 or Heading 9967	Services provided by a goods transport agency, by way of transport in goods carriage of – (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees ; (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; (d) milk, salt and foods grain including flour, pulses and rice; (e) organic manure; (f) newspaper or magazines registered with the Registrar of Newspaper (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments	NIL	NIL

Agriculture produce has been defined under Para 2 (d) of Notification No.12/2017-Central Tax (Rate) dt.28.06.17, as 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.

As regards the goods supplied by the applicant, the same are seeds which are covered under chapter heading 1209 of the first schedule to the Customs Tariff Act, 1975. As per the list of activities undertaken by the applicant, the harvested raw seeds are dispatched to the processing unit with the Production advice to Gurgaon or Bangalore as per requirement, where the seeds are processed with machines, quality checks are done **thereafter the seeds are chemically treated and packed**. Such chemically processed and treated seeds can no more be regarded as agriculture produce in terms of Para 2 (d) of the Notification No.12/2017- Central Tax (Rate) dt.28.06.17.

Further,

- As per Section 24(1)(iii) of the CGST Act, 2017, person required to pay GST under reverse charge mechanism is required to obtain registration under the Act.
- As per Notification No. 13/2017-Central Tax (Rate) Serial No. 1 Column 4(a) & (e), a recipient who is "Any Factory registered under or governed by Factories Act, 1948 and any body corporate established by or under any law, are liable to pay tax under RCM if he is receiving services of transportation of Goods from a GTA (Goods Transport Agency).

Therefore, the applicant is required to pay GST under reverse charge mechanism in case of transportation services received for transporting the aforesaid goods from a Goods Transport Agency (GTA).

**8.4. If reply to query number 8.2 is negative, whether registration is required under GST Act?**

As the answer to query number 8.2 is not negative, this question is not required to be answered.

**8.5. Whether registration is required under GST Act, 2017 for interstate supply/sales of tax free goods?**

Section 23 of CGST Act, 2017 provides that any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act shall not be liable to registration. Therefore, in case the applicant is engaged exclusively in supply of exempted goods [and also not receiving any taxable services liable to RCM under GST provisions], registration is not required under the CGST Act, 2017.

**8.6. Whether GST registration can be surrendered if we are not liable to pay RCM us 9(3) of CGST Act 2017 and not liable to be registered under GST Act?**

It has been discussed in para 9.3. above, that the applicable is liable to pay GST under RCM, in terms of Section 9(3) of the CGST Act, 2017, they are liable to registered under the CGST Act, 2017.

**ADVANCE RULING UNDER SECTION 98 OF THE CGST/HGST ACT, 2017**

**9. In the light of discussion above, the advance ruling is pronounced as under:**

**9.2. Whether registration is required in case of supply of tax free goods under GST Act?**  
Person is engaged in supply of exempted goods or services or both, which are not liable to be taxed, shall not be liable to be registered under the CGST Act, 2017.

**9.3. Whether assessee is liable to pay tax under RCM U/S 9(3) of the CGST Act, 2017 for transporting tax free goods?**



As no exemption is available for transportation services provided by Goods Transport Agency (GTA) in respect of such goods under Notification No.12/2017-Central Tax (Rate), dt.28.06.2017, the applicant is liable for payment of tax under RCM u/s 9(3) of the CGST Act, 2017.

**9.4. Whether registration is required under GST Act, 2017 for interstate supply/sales of tax free goods?**

In case the applicant is engaged exclusively in supply of exempted goods [and also not receiving any taxable services liable to RCM under GST provisions], registration is not required under the CGST Act, 2017.

**9.5. Whether GST registration can be surrendered if we are not liable to pay RCM u/s 9(3) of CGST Act 2017 and not liable to be registered under GST Act?**

In case the applicant availed services of GTA for transportation of goods, they would be liable to pay GST under RCM u/s 9(3) of the CGST Act, 2017, consequently they will be liable to be registered under the CGST Act, 2017.

Ordered accordingly.  
To be communicated.

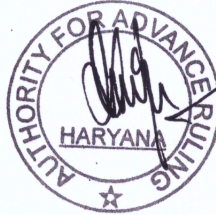
Dated : 03.10.2018  
Panchkula.

*Sangeeta*  
(Sangeeta Karmakar)  
Member CGST

*Certified true copy -* (Vijay Kumar Singh)  
Member SGST

**Regd. AD/Speed Post**

M/s Acsen Hyveg Private Limited,  
Plot No.126, Sector-8, IMT Manesar,  
Gurgaon-122051, Haryana



**Copy to:**

- 1) The Commissioner, CGST Commissionerate, Gurugram, GST Bhawan, Plot No 36-37, Sector 32, Gurugram, Haryana- 122001
- 2) The Deputy Excise and Taxation Commissioner, Gurugram
- 3) The Assistant/ Deputy Commissioner, Central Tax Division, Gurugram, CGST Gurugram Commissionerate, GST Bhawan, Plot No 36-37, Sector 32, Gurugram, Haryana- 122001