



**HARYANA AUTHORITY FOR ADVANCE RULING,  
GOODS AND SERVICES TAX,**



**HARYANA VANIJYA BHAWAN, PLOT NO I-3, SECTOR 5,  
PANCHKULA-134151 (HARYANA)**

**ADVANCE RULING NO.HAR/HAAR/R/2018-19/20**

(In Application No.: 20/2018-19, dated 26.07.2018)

Name & Address of the Applicant	: M/s Lawrence Agro Storage Pvt. Ltd., Khasra No. 53/16/2, 25/1, Village Bazipur, Sabholi, Sonapat.
GSTIN of the Applicant	: 06AABCL8282B1ZO
Date of Application	: 26.07.2018
Clause(s) of Section 97(2) of CGST/HGST 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.
Date of Personal Hearing	: 16.10.2018
Present for the Applicant	: Sh. Tilak Chandana, CA alongwith Ms. Ratna Dhingra, CA, Sh. Ashish Gupta, Director and Sh. Amit Aggarwal, Director

**Factual Background As Per Applicant**

Lawrence Agro Cold Storage Private Limited (the applicant), having GSTIN: 06AABCL8282B1ZO is operating multi- products, multi chambers cold storage facility in village Nathupur, district Sonapat Haryana. The said facility has been set up in accordance with guidelines and specifications of National Horticulture Board for which it has been provided financial assistance/subsidy also. Temperatures, humidity and other parameters in all chambers are controlled by the refrigerated plant and equipment installed in the facility. The facility is capable of storing all products and goods which require temperature between the range of -4 degree to 22 degree and humidity of required degree. It is generally storing following goods:

1. Fruits and vegetables,
2. Agriculture produce,
3. Kirana items including dry fruits,
4. Eggs,
5. Other miscellaneous goods.

The said facility is used for cold storage of goods on behalf of others, both registered and unregistered person under the Central Goods and Service tax Act and The integrated Goods and Services Tax Act located in the state of Haryana and other states. It normally charges service charge to its customers which is based on the number of bags and the number of months or part thereof for which such bags are stored.

**Question(s) on which advance ruling is required**

1. Clause (i) of the entry at S.N 24 of the table appended to notification number 11/2017-Central Tax (Rate) dated 28.6.2017 states that support services to agriculture, forestry, fishing, animal husbandry falling under the heading 9986 will attract Nil rate of tax. As per clause (i) (e) of the explanation to this entry support services to agriculture, forestry, animal husbandry means services relating to agriculture produce by way of loading, unloading, packing, storage or warehousing of agriculture produce. Further, as per clause (vii) of the explanation given in note number 4 to the said notification "agriculture 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 materials or other similar products, **on which either no 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.**

In this regard, advance ruling is requested on following matters:

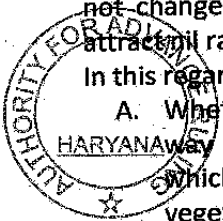
- A. Whether storage or warehousing mentioned in clause (i) (e) of the explanation in entry at S.N 24 includes cold storage, deep freeze storage and controlled atmosphere storage also?
- B. In case, services by way of storage or warehousing does not include services by way of cold storage, deep freeze storage or controlled atmosphere storage, will such services in relation to agriculture produce be charged to tax and if yes at what rate and under which classification?
- C. As per the definition of agriculture produce given in clause (vii) of the explanation in note number 4 to the said notification, agriculture produce include produce out of cultivation of plants and rearing of all life forms of animals on which processing is done as is usually done by cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. Does that imply that when such processing is done, which is usually done by the cultivator, in the processing house or a factory by person other than cultivator which does not alter its essential characteristics of the produce out of cultivation of plants and rearing of life forms of animals, but makes it marketable for primary market will also be covered by the definition of "agriculture produce"?
- D. Whether turmeric whole (gattha & fali), turmeric powder, red chili (whole), red chili powder, chili seeds are covered under the definition of 'Agriculture Produce' as defined under Notification No. 11/2017- Central tax (Rate) dated 28.06.2017

2. Clause (ii) of the entry at S.N. 24 of the table appended to notification number 11/2017-Central Tax (Rate) dated 28.6.2017 stipulates that services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables will attract nil rate of tax.

In this regard, advance ruling is required on following matters:

- A. Whether services by way of pre-conditioning or pre-cooling includes service by way of cold storage, deep freeze storage and controlled atmosphere storage which does not change or alter the essential characteristics of said fruits or vegetables?

- B. In case, services by way of pre-conditioning or pre-cooling does not include services by way of cold storage, deep freeze and controlled atmosphere storage, whether or not such services in relation to fruits or vegetables will be eligible for nil rate of tax under clause (i) (e) of entry at S.N 24 under the heading 9986 subject to compliance with conditions specified therein as fruits and vegetables are also agriculture produce?



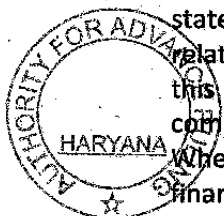
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- C. Whether fruits or vegetables for the purpose of this entry means only fresh fruits or vegetables or does it also include dry fruits, cut fruits, frozen fruits, processed fruits and cut vegetables, dried vegetables, processed vegetables in view of the fact that condition of no processing or minimal processing which is usually done by the cultivator to make it marketable is not present in this entry? The only condition in the entry in respect of fruits and vegetables is that preconditioning, pre-cooling should not change or alter the essential characteristics of fruits or vegetables.
3. Annexure to the notification number 11/2017-Central Tax (Rate) dated 28.6.2017 stipulates scheme of classification of services. Section 6 of this annexure relate to distributive trade services; accommodation, food and beverage service; transport services; gas and electricity distribution services. S.N 125 of the said section speaks of supporting services in transport falling under the heading 9967. This heading has group number 99672 at S.N 131 of the table relating to storage and warehousing services. S.N 132 mentions service code number 996721 for refrigerated storage services, SN 133 mentions service code number 996722 relating to bulk liquid or gas storage services and S.N 134 mentions of service code 996729 relating to other storage and warehousing services.

In this regard, advance ruling is required on following matters:

- A. As heading number 9967 speaks of supporting service in transport, does the service code number 996721 at S.N 132 relating to refrigerated storage and service code number 996729 at SN 134 relating to other storage and warehousing services would apply when the storage or warehousing happens in the course of or in relation to transportation of goods only or these service codes would also equally apply to refrigerated storage services and other storage and warehousing services per se other than of the agriculture produce which are covered under heading 9986 of section 8 at SN 454 of the annexure?
- B. Further, in case service code 997621 relating to refrigerated storage service is only by way of supporting service in transport and not otherwise, then what is the section, heading, group and service codes for cold storage services, deep freeze storage services and controlled atmosphere storage services? It may be stated that section 7 of the annexure of the said notification covers financial and related services; real estate services; and rental and leasing services, section 8 of this annexure covers business and production services and section 9 covers community, social and personal services and other miscellaneous services. Whether the storage and warehousing of goods get covered in section 7 under financial or related service or it will get covered in section 8 under business and production services and the relevant service code thereof or will it be covered in section 9 relating to other miscellaneous services?

4. Attention is invited to section 12 of the Integrated Goods and Service Tax Act. Sub section 2 of the said section provides that the place of supply of services, except the services specified in sub sections 3 to 14 (a) made to a registered person shall be the location of such person; (b) made to any person other than a registered person shall be, (i) the location of the recipient where the address on record exists and (ii) the location of the supplier of services in other cases. Section 12(3) (a) stipulates that place of supply of services **directly in relation to an immovable property**, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work and any service ancillary to the said service, shall be the location at which the immovable property is located or intended to be located. We may also refer to sub section 2 of section 7(3) and section 8(2) of the Integrated Goods and Services Tax Act which deal with inter-state supply and intra state supply respectively. Sub section 3 to section 7



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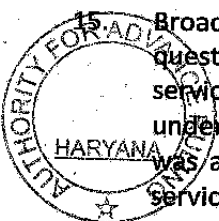
provides that subject to provisions of section 12, supply of services, where the location of the supplier and the place of supply are in (a) two different states (b) two different territories, or (c) a state and a union territory, shall be treated as supply of services in the course of inter-state trade or commerce.

In this regard, following matters are referred in advance rulings:

- A. Whether services provided by way of cold storage, deep freeze storage and controlled atmosphere storage of goods shall fall under section 12(3) of IGST act being services **directly in relation to an immovable property or services ancillary thereof** will it fall in section 12(2)(a) or section 12(2)(b) of IGST Act for the purposes of determining the place of supply of services by way of cold storage services etc.?
- B. In case it is held that cold storage etc services are in relation to immovable property under section 12(3) of IGST Act, supplier of such services being located in a particular state, say Haryana, will have to charge CGST and SGST on supply of such services as location of the supplier and place of supply are in the same state even though the person receiving such services is a registered person located in state other than Haryana. Question for advance ruling is whether the recipient of such services being registered in state other than state of supply, say in Delhi, will be entitled to input tax credit on the tax paid in respect of input services?

#### Record of Personal Hearing

14. Personal hearing in the case was conducted on 16.10.2018. The applicant had reiterated the submissions made in their application.



15. Broadly, the applicant had sought ruling on four questions out of which the question no. 4 pertaining to the place of supply of services by way of cold storage services was not admitted for consideration of the Authority as it did not fall under the scope of section 97 (2) of the HGST/CGST Act, 2017. The application was admitted on rest of the three questions pertaining to the classification of services and applicability of notification issued under the Act.

16. After detailed discussions, the decision of the Authority on the ruling to be given was reserved, which is being released today.

#### Discussion and finding of the authority

17. The first question put by the applicant seeks an explanation to the term 'warehousing' as appearing in clause (i) (e) of the explanation in entry at Sr. No. 24 of the notification no. 11/2017-Central Tax (Rate), dated 28.06.2017 corresponding notification no. 46/ST-2 Dt. 30.06.2017 under the HGST Act, 2017.
18. Since, the warehousing services are support services and covered in SAC 99672, it includes cold storage, deep freeze storage and controlled atmosphere storage services also unless an exception is provided in the entry.
19. It had also been argued and discussed whether processing done on the agriculture produce by a person other than the cultivator will take away the benefit of nil rate to support services in relation to agricultural produce as per entry no. 24 of the said notification.

A plain reading of clause (vii) of explanation 4 to the said notification clearly mention that 'such processing is done as is usually done by a cultivator or producer.' It is immaterial that who does the process as long as the process is such as is usually done by the cultivator or producer which does not alter the essential

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characteristics of the agricultural produce but makes it marketable for primary market.

20. The term primary market for agricultural produce can be understood to mean the agricultural produce markets where the cultivator or the producer can make first sale of their produce. The agricultural produce on which certain process has been rendered which alters its essential characteristics are generally sold in the secondary markets like stores, kiriyana shops etc.

Turmeric, red chilly in whole are generally marketed in the primary markets and once converted in powdered form these are sellable in the secondary market.

21. The second question posed before the Authority relates to the pre-conditioning and pre-cooling processes as mentioned in sr. no. 24 (ii) of the said notification.

It is discussed that to properly utilise the cold-chain, and to initiate a supply of fresh farm produce to consumers, the supply chain operator, at the source end (farm gate), needs to prepare the harvested produce for travel from farm gate to market. This involves pre-conditioning procedures (e.g. washing, waxing, de-sapping), retail packaging and labelling, pre-cooling, before undergoing climate controlled storage and transportation and ripening. None of these measures alter the essential characteristics of agricultural produce as no food processing is involved – the farm produce is delivered fresh and whole, from farm to market. These preconditioning procedures make it possible for agricultural produce to be marketed more efficiently and help to reduce losses in supply chain and to prolong the freshness of produce.

It is amply clear that the pre-conditioning or pre-cooling processes are rendered on the agriculture produce at the farm gate before being transported to either the markets or for storage purpose. Therefore, these services of pre-conditioning or pre-cooling processes cannot be regarded as cold storage, deep-freeze or controlled atmosphere storages but the benefit of nil rate on such services shall be available as long as the conditions and restriction as provided under entry 24 (ii) of the said notification are satisfied.

22. It had also been discussed that whether the entry 24 (ii) of the said notification also include dry fruits, cut fruits, frozen nuts, processed fruits, and cut vegetables, dried vegetables, processed vegetables and the like.

As discussed in para above the pre-conditioning or pre-cooling processes etc. are usually done at the farm gate on the fresh harvested fruits and vegetables. The category of the products cited by the applicant are such on which certain processing has already been done. Such already processed produce will not require the pre-conditioning or pre-cooling processes to be done again and therefore, to our mind the entry takes in its scope fresh fruits and vegetable only.

23. The third question posed before the Authority is in respect of understanding the scope of SAC 9967 (supporting service in transport) in relation to the agriculture produce as mentioned at Sr. No. 24 of the said notification.

It is noticed that the benefit of nil rate is provided to only those support services to agriculture which are specifically mentioned at Sr. No. 24 of the said notification. It does not cover the services of transport of agriculture produce and therefore the applicable SAC on such services shall be 9967 irrespective of the service being performed in relation to agricultural produce or any other goods.



Subject

**Advance ruling under section 98 of the CGST/HGST Act 2017**

In the backdrop of above discussions and findings the advance ruling on the questions is pronounced as under: --

1. A. Whether storage or warehousing mentioned in clause (i) (e) of the explanation in entry at S.N 24 includes cold storage, deep freeze storage and controlled atmosphere storage also?

Ruling:

Since, the warehousing services are support services and covered in SAC 99672, it includes cold storage, deep freeze storage and controlled atmosphere storage services also unless an exception is provided in the entry.

- B. Does not require to be answered in view of ruling on A above.

- C. As per the definition of agriculture produce given in clause (vii) of the explanation in note number 4 to the said notification, agriculture produce include produce out of cultivation of plants and rearing of all life forms of animals on which processing is done as is usually done by cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. Does that imply that when such processing is done, which is usually done by the cultivator, in the processing house or a factory by person other than cultivator which does not alter its essential characteristics of the produce out of cultivation of plants and rearing of life forms of animals, but makes it marketable for primary market will also be covered by the definition of "agriculture produce"?

Ruling:

A plain reading of clause (vii) of explanation 4 to the said notification clearly mention that 'such processing is done as is usually done by a cultivator or producer.' It is immaterial that who does the process as long as the process is such as is usually done by the cultivator or producer which does not alter the essential characteristics of the agricultural produce but makes it marketable for primary market.



Whether turmeric whole (gattha & fall), turmeric powder, red chili (whole), red chili powder, chili seeds are covered under the definition of 'Agriculture Produce' as defined under Notification No. 11/2017- Central tax (Rate) dated 28.06.2017.

Ruling:

The term primary market for agricultural produce can be understood to mean the agricultural produce markets where the cultivator or the producer can make first sale of their produce. The agricultural produce on which certain process has been rendered which alters its essential characteristics are generally sold in the secondary markets like stores, kiriyana shops etc.

Turmeric, red chilly in whole are generally marketed in the primary markets and once converted in powdered form these are sellable in the secondary market.

- 2A. Whether services by way of pre-conditioning or pre-cooling includes service by way of cold storage, deep freeze storage and controlled

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atmosphere storage which does not change or alter the essential characteristics of said fruits or vegetables?

**Ruling:**

In view of the discussions and findings in para 21 above it is amply clear that the pre-conditioning or pre-cooling processes are rendered on the agriculture produce at the farm gate before being transported to either the markets or for storage purpose. Therefore, these services of pre-conditioning or pre-cooling processes cannot be regarded as cold storage, deep-freeze or controlled atmosphere storages but the benefit of nil rate on such services shall be available as long as the conditions and restriction as provided under entry 24 (ii) of the said notification are satisfied.

- 2B. Does not require ruling in view of the above ruling to question 2A.
- 2C. Whether fruits or vegetables for the purpose of this entry means only fresh fruits or vegetables or does it also include dry fruits, cut fruits, frozen fruits, processed fruits and cut vegetables, dried vegetables, processed vegetables in view of the fact that condition of no processing or minimal processing which is usually done by the cultivator to make it marketable is not present in this entry?

**Ruling:**

As discussed in para 21 above the pre-conditioning or pre-cooling processes etc. are usually done at the farm gate on the fresh harvested fruits and vegetables. The category of the products cited by the applicant are such on which certain processing has already been done. Such already processed produce will not require the pre-conditioning or pre-cooling processes to be done again and therefore, to our mind the entry takes in its scope fresh fruits and vegetable only.

- Q.No. 3A. As heading number 9967 speaks of supporting service in transport, does the service code number 996721 at S.N 132 relating to refrigerated storage and service code number 996729 at SN 134 relating to other storage and warehousing services would apply when the storage or warehousing happens in the course of or in relation to transportation of goods only or these service codes would also equally apply to refrigerated storage services and other storage and warehousing services per se other than of the agriculture produce which are covered under heading 9986 of section 8 at SN 454 of the annexure?



- 3B. Further, in case service code 997621 relating to refrigerated storage service is only by way of supporting service in transport and not otherwise, then what is the section, heading, group and service codes for cold storage services, deep freeze storage services and controlled atmosphere storage services? It may be stated that section 7 of the annexure of the said notification covers financial and related services; real estate services; and rental and leasing services, section 8 of this annexure covers business and production services and section 9 covers community, social and personal services and other miscellaneous services. Whether the storage and warehousing of goods get covered in section 7 under financial or related service or it will get covered in section 8 under business and production services and the relevant service code thereof or will it be covered in section 9 relating to other miscellaneous services?

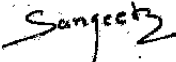
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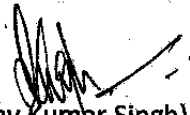
**Ruling:**

It is clarified that the benefit of nil rate is provided to only those support services to agriculture which are specifically mentioned at Sr. No. 24 of the said notification. It does not cover the services of transport of agriculture produce and therefore the applicable SAC on such services shall be 9967 irrespective of the service being performed in relation to agricultural produce or any other goods.

Ordered accordingly.  
To be communicated.

Dated: 25.10.2018  
Panchkula.

  
(Sangeeta Karmakar)  
Member CGST

  
(Vijay Kumar Singh)  
Member SGST

**Regd. AD/Speed Post**

M/s Lawrence Agro Storage Pvt. Ltd.,  
Khasra No. 53/16/2, 25/1, Village Bazipur,  
Sabholi, Sonapat.

*certified true copy*



**Copy to**

1. The Commissioner, CGST, 2<sup>nd</sup> Floor, Pacific City Centre, Opposite Shangrila Hotel, Near Jat Bhawan, Delhi Bypass, Rohtak.
2. Deputy Excise & Taxation Commissioner (ST), Sonapat.
3. The Assistant Commissioner of Central Goods and Services Tax Division, Sonapat, Star Complex, Opposite Civil Hospital, Delhi Road, Sonapat.