

HARYANA AUTHORITY FOR ADVANCE RULING,

GOODS AND SERVICES TAX,



HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2018-19/38
(In Application No.: 38/2018-19, dated 29.11.2018)

Name & Address of the Applicant	:	M/s Haryana State Warehousing Corporation, Bay No. 15-18, Sector-2, Panchkula, Haryana, 134112
GSTIN of the Applicant	:	06888CH3948K1ZF
Date of Application	:	29.11.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	Clause(e)- determination of liability to pay tax on any goods of services or both
Date of Personal Hearing	:	20.02.2019
Present for the Applicant	:	Sh. B.K Nohoria, Sh. N.K Nohoria, Sh. Manoj Kumar and Sh. Vimlesh Kumar, Account Assistant HSWC

Facts in Brief:

1. The applicant is incorporated under Warehousing Corporation Act, 1962 which is an Act of Parliament. It provides services of storage and warehousing of both agricultural and non-agricultural produce. Goods which are stored in warehouses of the Applicant are kept as security by the owner of the goods. The stock warehoused can be used as a security for the purpose of availing loans from various financial institutions. For creating a charge/mortgage/lien on these warehoused goods in favour of the financial institutions, a fee is charged from the owner of the goods who has kept the goods in the warehouses maintained by the applicant. Further, in case of change of ownership of the goods stored and warehoused in the warehouses maintained by the applicant, a stock transfer fee is charged by the Applicant from the previous owner.

Issue for Ruling:

2. The question on which Advance Ruling has been sought is whether lien or mortgage charges and stock transfer fees received by the applicant from the service receiver are taxable under section 9 of Central Goods and Service Tax Act, 2017 and Section 9 of Haryana Goods and Service Tax Act, 2017 or exempt under section 11 of Central Goods and Service Tax Act, 2017 with respect to both agricultural and non-agricultural produce stored and warehoused in the warehouses of the applicant.

Sanjeet

Discussion:

- 3.1 The contention of the applicant is that as per Serial No. 54 of the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horse, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt under section 11 of the Central Goods and Service Tax Act, 2017. Similar Notification No:47/ST-2 dated 30.06.2017 has been issued under section 11 of the Haryana Goods and Service Tax Act, 2017
- 3.2 Now, Section 9 of the CGST Act deals with the levy and collection of Goods and Services Tax whereas Section 11 deals with the power to grant exemption from tax. As per the Notification No: 12/2017- Central Tax (Rate) dated 28.06.2017 at Entry No. 54 Heading 9986, Clause (e) loading, unloading, packing, storage or warehousing of agricultural produce attracts Nil rate of tax. The applicant has relied upon the CBEC Circular No. B/II/1/2002-TRU dated 01.08.2002 for the purpose of defining the scope of storage and warehousing service. As per the notification, the storage and warehousing service provider normally makes arrangements for space to keep the goods, loading, unloading and the stocking of goods in the storage area, keeps inventory of goods, makes security arrangements and provide insurance cover etc. The applicant has laid emphasis that the mortgaging and stock transfer services form part of storage and warehousing service and accordingly, the fee charged in respect of these services should attract Nil rate of tax.

Finding:

- 4.1 After hearing the representatives/authorized persons of the applicant at length and perusing the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, the Advance Ruling Authority reaches to the conclusion that the services in question are taxable services. The Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 provides for Nil rate of tax with respect to loading, unloading, packing, storage or warehousing of agricultural produce. The notification nowhere exempts the charge/mortgage/lien fee



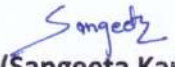
Sangach


and stock transfer fee charged by the applicant from the service recipient in case of agricultural goods from the Goods and Services Tax.

- 4.2 The scope of storage and warehousing services as defined in CBEC Circular No. B/II/1/2002-TRU dated 01.08.2002 does not encompass the mortgaging and stock transfer service.
- 4.3 The charge/mortgage/lien fee and stock transfer fee with respect to non-agricultural goods stored and warehoused is liable to tax under the CGST/ HGST Act, 2017.

Ordered accordingly.
To be communicated.

22.02.2019
Panchkula.


(Sangeeta Karmakar)
Member CGST


(Madhubala)
Member SGST

Regd. AD/Speed Post

M/s Haryana State Warehousing Corporation,
Bay No. 15-18, Sector-2, Panchkula, Haryana, 134112

Copy to:

1. The Commissioner, Central Goods & Service Tax, Panchkula Commissionerate, SCO 407-408, Sector-8, Panchkula (Haryana)
2. Assistant Commissioner, Central Goods & Service Tax, Panchkula Division, SCO 407-408, Sector-8, Panchkula (Haryana)
3. Dy. Excise & Taxation Commissioner (ST) Panchkula.