

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
ROOM NO.207, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD,
CHENNAI-600006**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/S.98 OF THE GOODS
AND SERVICES TAX ACT, 2017**

Members present:

Shri. Balakrishna. S, I.R.S., Additional Commissioner/ Member(CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Shri. B. Suseel Kumar, B.E, MBA Joint Commissioner/Member(SGST), Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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ORDER No.03/ARA/2025, Dated:12.02.2025

- 1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.*
- 2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-*
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.*
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.*
- 3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
- 4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*

GSTIN Number, if any / User id		33AABCB3000B1ZN
Legal Name of Applicant		M/s. JUDE FOODS INDIA PRIVATE LIMITED
Registered Address / Address provided while obtaining user id		1-230/2, Ground floor, North Thamaraikulam, Kanyakumari – 629708.
Details of Application		GST ARA – 01 Application Sl. No. 102/2023/ARA, dated 10-11-2023.
Jurisdictional Officer		Centre: Commissionerate: Madurai Division: Tirunelveli, Range : Nagercoil
Concerned Officer		Tirunelveli Division Kanyakumari Zone Nagercoil (Rural) Assessment Circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provider
B	Description (in brief)	<p>M/s Jude Foods India Private Limited ('the Applicant') is engaged in the business of service in the nature of processing of fish. Along with direct sales of fresh fish and frozen fish to the customers, the applicant is also providing fish processing services. The fish processing service provided by the applicant consists of following activities.</p> <ul style="list-style-type: none"> (i) Raw fish or Prawns are supplied by the service receiver; (ii) The applicant cleans, cuts, fillets or peels the fish and prawns; (iii) It is then frozen, packed and labelled; (iv) Then stored in cold storage at the temperature of (-) 18 degree centigrade; (v) The packed products are then supplied to service receiver in reefer container at the temperature less than or equal to (-) 18 degrees. <p>The applicant is contending that the fish processing falls within the classification of HSN 998812 attracting 5%(CGST-2.5% & SGST-2.5%) in terms of Notification No. 11/2017-CT(Rate) dated 28th Jun, 2017 as amended by Notification No. 31/2017-CT(Rate) dated 13th Oct, 2017.</p>

		Based on the above facts, the applicant is seeking clarification on the following. (i) What is the classification and tax rate for "Fish Processing".
Issue/s on which advance ruling required		Classification of any goods or services or both
Question(s) on which advance ruling required		Query 1: What is classification and Tax rate for "FISH PROCESSING".

1.0 At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *pari materia* and have the same provisions in like matters and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2.0 M/s Jude Foods India Private Limited (hereinafter '**the Applicant**') has made a debit in their Electronic Cash Ledger with reference Number DC3309230372122 dated 24-09-2023 evidencing payment of application fees of Rs. 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017. The online application form for advance ruling dated 10th Nov, 2023 was physically received on 15-11-2023 as mandated under Rule 107A.

3.0 STATEMENT OF FACTS AS NARRATED BY THE APPLICANT:

- M/s. Jude Foods India Private Limited (hereinafter '**the Applicant**') along with direct sales of fresh fish, chilled fish and frozen fish to the customers, is also providing fish processing services.
- The fish processing done by the applicant consists of the following activities.
 - Raw fish or prawns supplied by the service receiver in ice.
 - The applicant cleans, cuts, fillets or peels the fish and prawns.
 - It is then frozen, packed and labelled.
 - The product is then stored in cold storage at minus 18 degree centigrade.
 - The packed products are then supplied back to the service receiver in reefer containers at minus 18 degree centigrade or less.
- The applicant is of the opinion that the fish processing falls within the entry 998812 chargeable at 5% (CGST-2.5% and SGST-2.5%).
- The applicant claimed that there is specific entry in Notification No. 11/2017-CT(Rate) amended upto date from time to time read with the annexed scheme of classification of services referred to into explanation 4(ii) to the notification.

- The applicant is carrying out processing of fish as stated above. During processing fresh fish/prawns are cleaned, cut, and frozen to become frozen fish/prawn. Frozen fish/prawns is a different commodity than fresh fish/prawn as the frozen fish/prawn is ready to cook and their shelf-life is much higher than the fresh fish/prawns.
- Fresh fish is taxed at Nil rate, whereas the frozen fish is taxed at 5%.

4. Comments offered by JC, Madurai CGST Commissionerate

Joint Commissioner vide letter dated 04-01-2024 has submitted that no proceedings are pending in respect of M/s. Jude Foods Private Limited, Tirunelveli on the issue raised by the applicant in the Advance Ruling application as reported by the concerned field formation. However, no comments are offered on this issue.

5. Comments offered by SGST jurisdictional officer.

The Joint Commissioner (ST)(IW)(FAC) has informed that there is no pending proceedings on the advance ruling sought under Section 97 of the Act, in respect of the applicant.

Further, the State Tax Officer, Nagercoil (Rural) have informed that two confirmed demands were raised in the GST portal of the applicant, namely,

Demand ID	Date	IGST	CGST	SGST
ZD330624133570P	14-06-2024	Tax: Rs.3,28,284/- Pen-Rs. 36,476/-	Tax:Rs.4,92,093/- Pen-Rs. 54,677/-	Tax: Rs.4,92,093/- Pen-Rs. 54,677/-
ZD331024121747P	18-10-2024	Pen-Rs. 6,79.918/-	-	-

The state tax officer has further commented that as per Notification No. 11/2017CT(Rate) dated 28-06-2017, in serial No. 26, the rate of Tax is clearly specified as 5% for services of 'All food and food products falling under Chapter 1 to 22' and concluded the same.

6. PERSONAL HEARING

Personal hearing was held on 03-01-2025. Shri. S. Venugopal Chartered Accountant for M/s. S. Venugopal & Co attended the hearing. The authorized representative (AR) of the applicant reiterated the submissions made in the application and explained the activities being carried out by the applicant. The members requested AR to furnish certain documents which he has accepted to furnish the same at the earliest.

7. DISCUSSION AND FINDINGS

7.1. M/s. Jude Foods India Private Limited (hereinafter '**the Applicant**') along with direct sales of fresh fish, chilled fish and frozen fish to the customers, is also providing fish processing services. Raw fish and Prawns owned by others are received in ice. The applicant cleans, cuts, fillets or peels the fish and prawns. It is then frozen, packed and labelled. The product is then stored in cold storage at minus 18 degree centigrade. The packed products are then supplied back to the

service receiver in reefer containers maintained at minus 18 degree centigrade or less.

7.2. The applicant claims that as per Notification No. 11/2017-CT (Rate) dated 28-06-2017 as amended up to date from time to time read with Annexed scheme of classification of services referred to in the explanation 4(ii) of the Notification that the fish processing service falls within the HSN entry 998812 and is chargeable at the rate of 5% (CGST-2.5% and SGST-2.5%).

7.3 Further the applicant stated that during processing, fresh fish/prawns are cleaned, cut, and frozen to become frozen fish/prawn. Frozen fish/prawns is a different commodity than the fresh fish/prawn as the frozen fish/prawn is ready to cook and their shelf-life is much higher than the fresh fish/prawns. Hence claimed that Fresh fish is taxed at Nil rate, whereas the frozen fish is taxed at 5%.

7.4. The following need to be analysed for deciding the classification and rate of GST on the activity done by the applicant.

- (i) What is the nature of activity being done by the applicant?
- (ii) Query in the present Advance ruling is "What is the classification and tax rate of FISH PROCESSING?"
- (iii) Whether the classification opined by the applicant is correct or not?
- (iv) Whether the notification claimed by the applicant is eligible to them?
- (v) If the classification adopted by the applicant is correct, whether it would fall under the purview of job work?
- (vi) If the services of the applicant is treated as 'job work', whether all the procedures contained in the Sections and Rules of GST relating to job work are followed and whether the applicant satisfies all the conditions of the notification claimed by them?
- (vii) Whether the rate of tax as claimed by the applicant is correct?
- (viii) Whether the liability reflecting in the GST portal has any bearing on the application of the applicant seeking Advance Ruling?

7.5. The applicant stated that they are in the business of making direct sale of fresh fish, chilled fish and frozen fish to the customers. In addition they are also providing 'fish processing services' wherever required. The activity of 'fish processing' consists of getting the raw fish in ice from the customers, cleans, cuts, fillets or peels, frozen, packed, labelled, stored and supplied back to the customers in a reefer container maintained at minus 18 degree centigrade or less.

7.6. The query or clarification sought by the applicant is "*What is the classification and rate of tax on "FISH PROCESSING?"*". Their contention is that their activity is classifiable under 998812 as Fish processing services which attracts 5% (CGST-2.5% and SGST-2.5%) in terms of Notification No. 11/2017-CT(Rate) dated 28-06-2017 amended by Notification No. 31/2017-CT(Rate) dated 13th Oct, 2017.

8. Notification No. 11/2017-CT.(Rate) dated 28th Jun, 2017 notifies the percentage of tax on certain intrastate supply of services. In Sl. No. 26, under

heading 9988 (Manufacturing services on physical inputs (goods) owned by others", which enumerates series of classification on activities in relation to manufacturing/handling of goods which are treated as Services by way of job work. The definition of 'Job work' is given as

(68) "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

9. Therefore, it is submitted that from the provisions of the CGST Act, 2017, there are three essential requirements to be fulfilled by the applicant in the present case to term the transaction of the applicant as job work, namely:

- The **activity** undertaken by the applicant should **qualify as a 'treatment or process'**,
- The treatment or process undertaken **should be on goods** i.e., the raw materials/inputs involved in the present cases should fall within the ambit of term 'goods',
- The **goods** should belong to **another registered person**.
- The term treatment or process is not defined under the GST Act 2017. However, it can be defined as "to subject a goods to a particular method or technique of preparation, handling, or other treatment, designed to affect a particular result". Or, process means, 'prepared, handled, treated or produced by a special technique or method'.

10. In the instant case, the activity of the applicant falls within the scope of job work, and the 'Principal' who is supplying the goods has to be a registered person. The registered person on whose goods job work is performed is called the "Principal" for the purpose of Section 143 of the CGST Act, 2017. Here the person who is sending raw fish in ice to the applicant is the principal and the applicant who performs any treatment or processes shall be the 'job-worker'.

11. The activity of 'fish processing' is classified under Chapter heading 998812 (manufacturing services on physical inputs (goods) owned by others vide notification No. 11/2017-CT.(Rate) dated 28th Jun, 2017 which was included vide Notification No. 31/2017-CT (Rate) dated 13th Oct, 2013, as **"Services by way of job work in relation to -(f) all food and food products falling under Chapter 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)"** chargeable @ 2.5.% each of CGST and SGST. Therefore, the fish processing services are taxable at the rate of 5% with effect from 13th Oct, 2017 under Chapter heading 9988. Prior to its amendment, the activity was covered under the Chapter heading 998812 as **(ii) Manufacturing services on physical inputs (goods) owned by others, other than (i) above** and attracted GST @ 18%.

12. As per the explanatory Notes to the scheme of classification of services, **9988 Manufacturing services on physical inputs owned by others**

The services included under heading 9988 are performed on physical inputs owned by units other than the units providing the service. As such, they are characterised as outsourced portions of a manufacturing process or a complete outsourced manufacturing process. Since the heading covers manufacturing services, the output is not owned by the unit providing this service. Therefore the value of the services in this heading is based on the service fee paid, not the value of the goods manufactured.

99881	<i>Food, beverage and tobacco manufacturing process</i>
99811	<i>Meat processing services</i>
998812	<i>Fish processing services</i>
998813	<i>Fruit and vegetables processing services</i>

13. In respect of the liabilities reflecting the GST portal of the applicant as stated by the State Officers, penalty under the IGST of Rs.6,79,918/- is due to interception of the goods conveyance belonged to the applicant by the Deputy State Tax Officer, Nagercoil during the verification/inspection of the conveyance under the provisions of Section 68 of the Act. After detaining the vehicle under Section 129 notice was issued for non-accompanying of valid documents such as export e-invoice with connected e-way bills for the taxable goods transported. The applicant had discharged the penalty raised in the notice as mentioned in the order.

14. In the second entry, the applicant was chosen for detailed scrutiny through portal based on the DGARM (Director General of Analytics and Risk Management) wing of CGST for the financial year 2019-2020. After detailed scrutiny of the records, the officers have raised three discrepancies namely,

- (i) The taxpayer availed excess ITC in GSTR-3B for an amount of Rs.59,77,458/- than the ITC available in GSTR-2A.
- (ii) The taxpayer did not reverse the common credit availed for exempted, Zero-rated supplies and taxable supplies for financial year 2019-20 as per Section 17(2) of the Act read with Rule 42 of the Rules.
- (iii) The taxpayer belatedly filed the GSTR-9 Annual Returns for 2019-20 and not paid the late fees of Rs.20,000/-

15. From para 13 & 14, it could be seen that the demand and subsequent liability reflecting in the GST portal does not have any bearing on the clarification sought by the applicant in their Advance Ruling application. Hence, the members have no hesitation in answering the clarification sought by the applicant.

16. Accordingly, it is concluded that if the applicant does the fish processing service on the goods owned by other registered person, it will fall within the scope of 'job work' and hence will be charged at the rate of 5%, provided all the procedures and provisions contained in the acts and rules are followed and adhered to by both the principal and by the applicant (job worker).

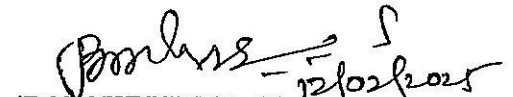
17. Based on the above discussion, we rule as under.

RULING

Based on the facts, records and evidences submitted along with the application, the activity of 'fish processing' done to other registered person on a job work basis is classified under 998812 and attracts GST at the rate of 5% (CGST-2.5% and SGST-2.5%) in terms of Sl. No. 26 (i) as 'Services by way of job work in relation to (f) all food and food products falling under Chapters 1 to 22 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) provided under Notification No. 11/2017-CT(Rate) dated 28th Jun, 2017, amended vide Notification No. 31/2017-CT (Rate) dated 13th Oct, 2013, subject to adherence of Sections, Rules, Provisions, Circulars in the statute and following the procedures prescribed with regard to job work.


(B. SUSEEL KUMAR)
Member (SGST)




(BALAKRISHNA. S)
Member (CGST)

To

M/s. JUDE FOODS INDIA PRIVATE LIMITED
GSTIN: 33AABCJ3000B1ZN
1-230/2, Ground floor, North Thamaraiikulam,
Kanyakumari - 629708

//by RPAD//

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai - 600 005.
3. The Commissioner of GST & Central Excise,
Madurai Commissionerate.

Copy to:

1. The Assistant Commissioner (TNGST),
Tirunelveli Division, Kanyakumari Zone,
Nagercoil (Rural) Assessment Circle.
2. Master File/ Spare - 2.