

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 13/2024

Date : 21-05-2024

Present:

1. Dr. M.P. Ravi Prasad

Additional Commissioner of Commercial Taxes

. . . . Member (State)

2. Sri. Kiran Reddy T

Additional Commissioner of Customs & Indirect TaxesMember (Central)

1.	Name and address of the applicant	M/s Karnataka Co-operative Milk Producers Federation Ltd., (Formerly known as KMF) KMF Complex, Dr.M.H.Mari Gowda Road, Bengaluru-560029
2.	GSTIN or User ID	29AAAAK1110G4Z4
3.	Date of filing of Form GST ARA-01	17.10.2023
4.	Represented by	Sri N Lokesh Reddy, C A & Authorised Representative
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Tax, Bengaluru South Commissionerate, Bengaluru.
6.	Jurisdictional Authority - State	LGSTO-040, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from cash ledger vide reference number DC2908230277427 dated 21.08.2023

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s Karnatka Co-operative Milk Producers Federation Ltd., (formerly known as Karnataka Milk Federation (KMF)) (called as the 'Applicant' hereinafter), having GSTIN number 29AAAAK1110G4Z4, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in FORM GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



2. The Applicant is engaged in manufacture of Cattle feed. They invited tenders from the transporters for transport of different raw materials and finished goods from factory to the customer places and after completing the tender process work orders are issued to the transporters quoted with least price and also fulfilled the criteria's as mentioned in the tender documents. Most of the transporters who participated in the tender process are individual truck owners.

3. In view of the above, the applicant has sought advance ruling in respect of the question that "**Whether services provided by individual truck owners for transport of raw materials & finished goods including loading and unloading are liable for GST?**"

4. **Admissibility of the Application:** The applicant claimed that the question on which advance ruling has been sought is with regard to "Determination of the liability to pay the tax on any goods or services or both" which is covered under Sections 97(2)(e) of the CGST Act 2017 and hence the instant application is admissible.

5. **BRIEF FACTS OF THE CASE:** The applicant furnished the following facts relevant to the issue:

5.1 The transportation services are broadly classified into the following categories

- a) Transportation of raw materials/finished goods from godowns to Manufacturing plants including loading & unloading
- b) Transportation of raw Materials from vendor location to the manufacturing plant
- c) Transportation of finished goods from the manufacturing plant to godowns with in the factory or outside factory
- d) Transportation of finished goods from the manufacturing plant/godown to the customer places.

5.2 Based on the requirements of the units the transporters will load the goods into the transport vehicles and unload the same at the destination as per the instructions of the units. The transporters will carry the goods along with the invoice/Delivery Challan along with e-way bill raised by the units or vendors wherever applicable along with transport vehicle. The transporters are not issuing any other documents like consignment notes to the units and the transporters will submit the invoices at the end of the month with details of goods transported during the month.

5.3 While raising invoices by the transporters few transporters are raising invoices by charging GST and few transporters are issuing invoices without charging GST and few transporters are issuing invoices by mentioning that the



service recipient is liable for payment of GST under reverse charge mechanism (sample copies of invoices enclosed)

6. **Applicant's Interpretation of Law:** The applicant submitted their interpretation of law inter alia stating as under:

6.1 As per Section 9(3) of CGST Act, 2017 "The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both"

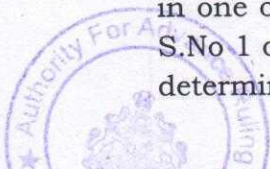
6.2 As per S.No.1 of notification 13/2017-Central Tax Rate dated 28th June 2017 the supply of services to the following categories of persons by the goods transport agency is notified as services liable under RCM. The extract of the notification is reproduced below for your reference.

Sl.No	Category of supply of services	Supplier of Service	Recipient of service
1	<p>Supply of Services by a goods transport agency (GTA), in respect of transportation of goods by road to-</p> <p>(a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or</p> <p>(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e)anybody corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law</p>	Goods Transport Agency (GTA)	<p>(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or</p> <p>(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the Central Goods and Services</p>



<p>including association of persons; or</p> <p>(g) any casual taxable person.</p> <p>[Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.]</p> <p>2 [Provided further that nothing contained in this entry shall apply where</p> <p>i. The supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge ;and</p> <p>ii. the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him</p>		
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6.3 As per the above entry in S.No.1 of Notification 13/2017-Central Tax rate dated 28/06/2017, any services provided by a GTA (Goods transport Agency) to the parties specified in categories of supplies is liable for RCM. The applicant is falling in one of the categories of service recipients as specified in the list of categories of S.No 1 of notification 13/2017-central tax rate. The next question that needs to be determined is whether the transporter is a Goods transport agency (GTA) or not.



6.4 Goods transport agency has been defined in serial No. ze of notification 12/2017-Central Tax Rate dated 28/06/2017 to mean "any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called"

6.5 Consignment Note is neither defined in the Act nor in the notification no. 12/2017-Central Tax (Rate). Guidance can be taken from the meaning ascribed to the term under the Explanation to Rule 4B of erstwhile Service Tax Rules, 1994. In terms of the said rule, **consignment note means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.**

6.6 From the above definitions, it can be understood that the transporters who are issuing a consignment note with the above specified details are classified as GTA and the transporters who are not issuing consignment note could be classified as other than GTA may be GTO (Goods transport Operator).

6.7 Further, in terms of S.No.18 of notification 12/2017-Central tax rate, any services provided by way of transportation of goods

- a) By road except the services of
 - i. A goods transportation agency
 - ii. A courier agency
- b) By Inland waterways

are taxed at Nil rate.

6.8 They also provided sample work orders, invoices issued by the clients for reference. Further the applicant would submitted that the few persons who are providing transportation services have provided the declarations specifying that they are not registered as GTA, and also enclosed a copy of the declarations submitted by the transporters.

6.9 Based on the above interpretation of law they sought advance ruling on the following questions of law.

- a) Whether the individual transporters are called as GTA
- b) Whether the transporters who are individual persons providing transportation services for transport of materials can collect GST on transportation services
- c) Whether the applicant is required to pay tax under RCM on the above transportation charges



PERSONAL HEARING PROCEEDINGS HELD ON 03.11.2023

7. Sri Lokesh Reddy, Chartered Accountant & Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matters and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts along with the arguments made by the applicant & the submissions made by their learned representative during the time of hearing.

10. The Applicant submitted that they engage the services of transporters, most of whom are individual truck owners, on selection of them through tender process, for transportation of goods by road, which are broadly classified into the following categories:

- a) *Transportation of raw materials/finished goods from godowns to Manufacturing plants including loading & unloading*
- b) *Transportation of raw Materials from vendor location to the manufacturing plant*
- c) *Transportation of finished goods from the manufacturing plant to godowns within the factory or outside factory*
- d) *Transportation of finished goods from the manufacturing plant/godown to the customer places.*

The applicant submitted that the transporters merely load the goods into the transport vehicles and unload the same at the destination as per the instructions of the units; the transporters carry the goods along with the invoice/ Delivery Challan and e-way bill raised by the units or vendors wherever applicable with transport vehicle; the transporters are not issuing any other documents like consignment notes to the units and the transporters submit the invoices at the end of the month with details of goods transported during the said month.

11. The applicant further submitted that vide entry No.1 of Notification 13/2017-Central Tax (Rate) dated 28th June 2017, the supply of services to specified categories of persons by the **goods transport agency** is notified as a



service liable under RCM and the applicant is covered under the list of said specified categories of service recipient. Goods Transport Agency has been defined under serial No. ze of Notification 12/2017-Central Tax (Rate) dated 28/06/2017 to mean ***“any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.”***

12. In view of the foregoing the applicant sought advance ruling in respect of the question ***Whether services provided by individual truck owners for transport of raw materials & finished goods including loading and unloading are liable for GST***, inter alia contending that the transporters i.e. the individual truck owners do not issue any consignment note for the transportation of goods by road and thus they are not covered under Goods Transport Agency (GTA). Therefore entry number 1 of the Notification No.13/2017 supra does not apply to the applicant and hence they are not liable to discharge GST under RCM.

13. The applicant, vide their letter dated 22.12.2023, declared that the individual truck owners, while transporting the goods, do not issue any consignment note; the said truck owners, at the request of the applicant, come to the factory, load the goods and carry the documents i.e. invoice copy/ delivery challan, weighment slips, E-way bill copy wherever applicable and the permit required for transportation of goods i.e. molasses. Further, the applicant, in support of their contention, also furnished the copies of agreements made with the transporters for transportation of molasses from the sugar factories and the raw materials between different cattle feed plants, which are in Kannada language and hence the English translated copies of the same were called for. The applicant, vide their letter dated 13.03.2024, submitted the copies of translated contract agreement copies made with the individual truck owners.

14. In view of the above, the issue before us to examine is whether the individual truck owners are covered under the category of Goods Transport Agency or not. In this regard, the copies of contract documents and invoices submitted by the applicant are examined and the following observations are made:

Transportation of Mollasses:

- (i) No compensation will be given by the KMF (Applicant), for the time of halting, during the transportation of Molasses, as the risk / responsibility are lying with the contractor (clause 2 of terms & conditions of the contract)
- (ii) The contractor will be held responsible directly in case of any obstruction in transporting molasses due to accident / technical problem. (clause 3 of terms & conditions of the contract)
- (iii) The vehicles engaged for transportation of molasses shall possess statutory permit issued by the Government of Karnataka and also shall have registration number, taxes & insurance should have been paid on time.



- (iv) The contractor is responsible to transport the entire quantity of molasses purchased by the applicant from the respective sugar factories. The transporter, in case of any hindrance, can leave the molasses to the maximum extent of 150 Kgs and if it exceeds the amount for the balance / left out molasses will be deducted from the transporter's bill.
- (v) The contractor shall transport the molasses within the time given/prescribed by the State Excise Department and any loss due to non-transportation within the stipulated time will be deducted in the contractor's bill / security deposit.
- (vi) Transportation of molasses has to be made scrupulously and the rules/regulations of the Department of Excise shall follow strictly. If any difference/deviation/illegal act is found contractors will be held solely responsible.
- (vii) The extension of permit for transportation of molasses, if required, has to be obtained from the Deputy Commissioner of Excise by the contractor themselves.
- (viii) The contractor must have the insurance for the full/total amount of molasses to be transported, else contractor will be held responsible for the loss that may be incurred.
- (ix) The difference in weight of molasses transported, if any, is allowed up to 40Kgs only and beyond the said quantity respective amount will be deducted in actuals from the contractor's bill/security deposit.
- (x) The contractor is not allowed to sub contract or piece work contract of the transportation work
- (xi) When the rate of diesel is revised, transportation rates will also be revised based on rate per kilometer i.e. estimated 10MT capacity vehicles, runs 4km per litre of diesel.
- (xii) The contractor has to submit the bill for the transport of molasses and also submit the records for having remitted statutory payments like professional tax etc.,
- (xiii) If statutory taxes are revised, the revised rates will be applicable.

Similar terms and conditions have been prescribed for transportation of molasses /raw material from one Cattle Feed factory Premises (CFP) to another CFP. From the aforesaid terms and conditions, it is seen that the transporter is placed under the obligation for safe custody and delivery of goods. Transporter obtains a lien over the goods for said responsibility.



The invoice issued by one of the molasses transport contractor (P. Hariharan Nanda) bearing number 224 dated 10.04.2023 contains the remark on the invoice that **"GST is paid by the consignee through RCM, under GTA Act"**.

Further we also invite reference to Sl.No. **ze** of para 2 of the Notification 12/2017-Central Tax (Rate) dated 28/06/2017 wherein Goods Transport Agency has been defined to mean **"any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called."**

15. Consignment note is neither defined under the CGST/KGST Act 2017 nor under the notification 12/2017 supra. However, the rules 4A and 4B of erstwhile Service Tax Rules 1994 are relevant to the consignment note and the said rules are as under:

Proviso 2 to Rule 4A: *Provided further that in case the provider of taxable service is a goods transport agency, providing service to any person, in relation to transport of goods by road in a goods carriage, an invoice, a bill or, as the case may be, a challan shall include any document, **by whatever name called, which shall contain the details of the consignment note** number and date, gross weight of the consignment and also contain other information as required under this sub-rule.*

Explanation to Rule 4B: *For the purposes of this rule and the second proviso to rule 4A, "consignment note" means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.*

16. In view of the foregoing a consignment note is a document issued by a transporter against the receipt of goods for the purpose of transporting the goods by road in a goods carriage with the lien on the goods being transferred to the transporter and the transporter of the goods becomes responsible for the goods till it's safe delivery to the consignee. It is observed, from the contract and invoices, that consolidated monthly invoices are being issued in respect of the transportation of molasses during the respective month as per the contract/agreement and that the lien of the goods has been transferred to the contractor, who is responsible for the said goods till safe delivery to the consignee. Further a consignment note, a serially numbered document, contains the details of *name of consignor, name of consignee, registration number of the goods carriage in which the goods are transported, details of the goods, place of origin, place of destination, person liable to pay GST – consignor, consignee or GTA.*



17. The transporter/contractor, in the instant case, admittedly carries supplier's invoice along with e-way bill, as per the provisions mentioned in Notification No.12/2018-Central Tax dated 07.03.2018, which contain the details of GSTIN of recipient (A1), Place of delivery (A2), Invoice or Challan number (A3), Invoice or Challan date (A4), Value of goods (A5), HSN Code (A6), Reason for transportation (A7) and Transport Document Number (A8) under Part-A and Vehicle Number (B) under Part-B. The e-way bill form GST EWB-01 (Rule 138 of CGST Rules 2017) contains the following notes.

1. *HSN Code in column A.6 shall be indicated at minimum two digit level for taxpayers having annual turnover upto five crore rupees in the proceeding financial year and at four digit level for taxpayers having annual turnover above five crore rupees in the preceding financial year.*
2. *Transport Document Number indicates Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number.*
3. *Place of Delivery shall indicate the PIN Code of place of delivery.*
4. *Reasons for Transportation shall be chosen from one of the following Code Description*
 - a. *Supply*
 - b. *Export or Import*
 - c. *Job Work*
 - d. *SKD or CKD*
 - e. *Recipient not known*
 - f. *Line Sales*
 - g. *Sales Return*
 - h. *Exhibition or fairs*
 - i. *For own use*
 - j. *Others*

18. It is clearly evident from the foregoing notes that an e-way bill must contain the Transport Document Number mandatorily, which is nothing but goods receipt number, under part A.8 of an e-way bill, without which the e-way bill cannot be issued. Therefore it is mandatory for the transporter/contractor to issue the transport document which is nothing but a consignment note, without which goods can't be transported. Further, the definition of GTA given at Serial No. ze of Notification 12/2017-Central Tax (Rate) dated 28/06/2017 refers to "*any person who provides service in relation to transport of goods by road and **issues consignment note, by whatever name called.***" Thus the document issued by the transporter containing the details as indicated above, in relation to transport of goods, by whatever name qualifies to be a consignment note. Thus the transporter/contractor qualifies to be a Goods Transport Agency and the GST has to be discharged as per the provisions of the CGST Act 2017 and the rules made thereunder read with Notification 11/2017- Central Tax(Rate) dtd 28.06.2017 read

with Notification No. 13/2017-Central Tax(Rate) dtd 28.06.2017 by the service recipient.

19. In view of the foregoing, we pass the following

RULING

The services provided by individual truck owners for transport of raw materials & finished goods including loading and unloading are liable to GST, as per the provisions of the CGST Act 2017 and the rules made thereunder.



(Dr. M.P. Ravi Prasad)

Member

Karnataka Advance Ruling Authority
Place : Bengaluru,
Bengaluru - 560 009

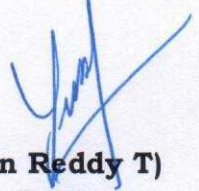
Date : 21-05-2024

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bengaluru South Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-40, Bengaluru.
5. Office Folder.



(Kiran Reddy T)

Member

Karnataka Advance Ruling Authority
Bengaluru - 560 009