

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6**

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

Members present are:

1. Ms. Manasa Gangotri Kata IRS., Joint Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai.

2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member(FAC),
Office of the Joint Commissioner (ST), Enforcement /
Inter-State Investigation Cell, Chennai-6.

ORDER No. 18 /AAR/2018 DATED 29.10.2018

GSTIN Number, if any / User id		33AAACN2369L1ZD
Legal Name of Applicant		M/s. Naga Limited
Registered Address/Address provided while obtaining user id		No.1, Trichy Road, Dindigul, Pin : 624 005.
Details of Application		GST ARA - 001 Application Sl.No.41 dated 14.08.2018
Concerned Officer		State : The Commercial Tax Officer (ST), Dindigul (Rural) Assessment Circle Government Building, Sub-Collector's Office Road, Dindigul - 624 001. Centre : Madurai Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Manufacturer of Commodity such as Maida, Sooji, Atta, Soap etc.,
B	Description (in Brief)	Importing of Agricultural Product viz., wheat through various sea ports to their factory premises after engaging various service provided at the sea port such as loading, unloading, packing , storage or warehousing of agricultural products.
Issue/s on which advance ruling required		Applicability of exemption from tax as per Sl.No. 54(e) of Notification No. 12/2017 - Central Tax (Rate) dated 28.6.2017
Question(s) on which advance ruling is required		Whether exemption provided under Sl.No.54(e) of GST Notification No.12/2017-Central Tax

	(Rate) dated 28.6.2017 for the service providers who have rendered Handling services such as loading, unloading, packing, storage or warehousing of agricultural products is applicable for agricultural products viz. Wheat when imported through sea port.
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Note : Any Appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s Naga Limited, No.1,Trichy Road, Dindigul 624005. (herein after referred as the Applicant or Naga) is a registered person under GST 2017 with GSTIN 33AAACN2369LIZD. They have sought Advance Ruling on the following question :

“Whether exemption provided under the chapter heading 9986 in Sl.No54(e) of GST Notification No.12/2017-CT (R)dated 28.6.2017 for the service providers who have rendered Handling services such as loading , unloading, packing , storage or ware housing of agricultural products is applicable for agricultural products viz. Wheat, when imported through sea ports”.

The Applicant has submitted the copy of application in Form GST ARA – 001 and also submitted a copy of Challan 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.

2.0 The Applicants are importer of Agricultural products viz. Wheat through various Sea Ports for carrying out Milling operations in their factory premises and manufacture of food products. While clearing the imported wheat from the sea ports, the Applicant is engaging various service providers for providing services such as loading, unloading, packing, storage or warehousing of agricultural products imported for clearing from the sea ports and to bring to their factory premises. Service Providers of the above said services at certain Ports by availing the exemption as per Sl.No. 54(e) of Notification 12/2017-CT(Rate) dated

28.06.2017, do not charge GST, on the ground that such services are rendered in relation to Agricultural Products. However, in one or two Ports, the service providers of loading and unloading and warehousing who handled wheat imports feels that the GST exemption Notification for the loading, unloading, packing, storage and warehousing of agricultural produce, mentioned under the Chapter heading 9986 Serial No.54(e) of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017 is limited only to the supply chain commencing from the stage of the Cultivator or Producer and extended up to the primary market. It did not include an entire market including further traders and ultimate consumers. Since, in the instant case, the service is not for the supply from Cultivators to the primary market, but from an importer (through availing the handling services of the port company) to the secondary or tertiary market in respect of unprocessed Agricultural produce, few service providers feel exemption may not be applicable in respect of imported goods and pay GST on the services rendered and claim the same from the applicant. The applicant has stated that as per the definition of 'Agricultural Produce', the restriction of primary market is applicable only in respect of processed Agricultural produce and the restriction is not applicable to unprocessed Agricultural produce. Therefore, as far as wheat is concerned, when there is no processing is carryout out the exemption will cover on the market and to all stake holders. Further, they have stated that as there is no differential treatment given between indigenous Agricultural produce and imported Agricultural produce, the exemption provided in respect of the unprocessed Agricultural produce is applicable not only to cultivators but also applicable to import traders.

3. The applicant was heard in person. The applicant submitted an agreement with Karaikal Port, an Invoice for storage charges and Advance Rule of Andhra Pradesh. They stated that Wheat is agricultural produce and service of loading, unloading, storage at Ports by respective Port authorities are related to agricultural produce and hence should be exempt.

4. The contentions of the applicant were examined. We find that the Advance Ruling sought is whether the exemption under Sl.No. 54(e) of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 is applicable for imported agricultural products Viz., Wheat also. From the submissions it is clear that the applicant avails the services of loading, unloading, storage, etc from various service

providers. It is made clear that the applicant do not make any of the supplies in question, but are in fact the recipients of the various supplies as stated in their application. Thus, the question is on the liability to pay tax on the services supplied to them and not on the supply made by them.

4.1 Section 95 (a) of CGST and TNGST Act defines 'advance ruling' as

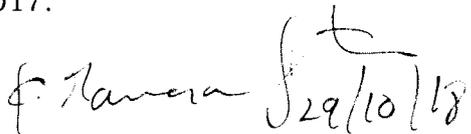
(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;;

From the above, it is evident that an applicant can seek an Advance Ruling in relation to supply of goods or services or both undertaken or proposed to be undertaken by the applicant. Further, as per Section 103(1) of the CGST Act, the ruling is binding only the applicant and the Concerned officer or the jurisdictional officer of the applicant.

4.2 In the case at hand, the applicant is the recipient of the services and not supplier of such service. Accordingly, the Application is not liable for admission and therefore rejected without going into the merits of the case.

RULING

The Application for Advance Ruling of M/s. Naga Limited, Dindigul is not admitted, under sub-section (2) of section 98 of the CGST Act, 2017 and the TNGST Act, 2017.

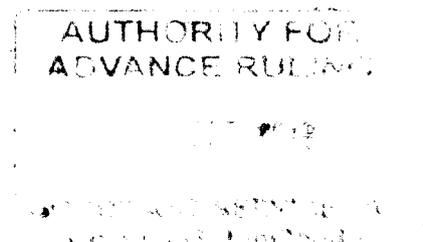
 29/10/18

Ms. Manasa Gangotri Kata, IRS
Member, CGST

 29.10.18

Shri. S. Vijayakumar, M.Sc.,
Member (FAC), TNGST

To
M/s. Naga Limited, //SPAD//
No.1, Trichy Road,
Dindigul, Pin : 624 005.



Copy Submitted to:

1. The Additional Chief Secretary/Commissioner of Commercial Taxes, II Floor, Ezhilagam, Chepauk, Chennai-5.

2. The Principal Chief Commissioner of GST & Central Excise, 26/1,
Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

1. The Commercial Tax Officer (ST),
Dindigul (Rural) Assessment Circle
Government Building,
Sub-Collector's Office Road,
Dindigul – 624 001.
2. The Commissioner of GST & C.Ex., Madurai Commissionerate.
Central Revenue Building,
No.4, Lal Bahadur Shastri Road, Bibikulam,
Madurai-625002
3. Master File/ Spare – 2.