

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.
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 Commissioner of GST & Central Excise, Chennai.
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A.,
Joint Commissioner (ST)/ Member
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

ORDER No. 22 /AAR/2019 DATED 22 .05.2019

GSTIN Number, if any / User id		33AHSPA0553H2ZL
Legal Name of Applicant		Mrs. RAJENDRABABU AMBIKA (Proprietrix of M/s. Sri Dhanalakshmi Welding Works)
Registered Address/Address provided while obtaining user id		No. 14, Veerakalaianman Koil Street, Jaihindpuram, Madurai. TamilNadu - 625 011.
Details of Application		GST ARA- 01 Application SI.No. 45 / 2018 / ARA dated 14.09.2018
Concerned Officer		State : The Assistant Commissioner (ST), Madurai Rural (South)Assessment Circle, Centre : Madurai Commissionerate Division- Madurai II
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Manufacturer and Job Work of Milk Dairy Machinery
B	Description (in Brief)	The Applicant is engaged in manufacturing, Erection and Commissioning, Reconditioning and Repairing and Maintenance of Milk Dairy Machinery products and its equipment's at various District CO-operative Milk

Issue/s on which advance ruling required	Classification of Goods / Services or both
Question(s) on which advance ruling is required	<p>1. The Applicant dairy machinery works (photograph attached) is liable to tax at 12% (HSN code-8434) or 18% (HSN Code-8413) kindly clarify.</p> <p>2. In dairy machinery works, the Applicant have taken Milk processing, milk chilling Refrigeration system, Milk handling equipment's and Milk Packing equipment's and milk allied product making machinery.</p> <p>3. For such supply and erection of dairy machinery it involves service charges also. If so what will be the rate of tax on the service charges component (Bill model is enclosed).</p> <p>4. Whether our nature of activities falls under works contract or not. If so, what will be the rate of tax and its HSN code? Also inform the details of entries to be made in monthly return GSTR-1.</p> <p>5. Clarify the applicability of E-Way Bill procedures for our business activities i.e. The goods sent on delivery challan for erection purpose and subsequently bill made similarly we took back the machinery to our place for repair and maintenance kindly specify the transport documents to be used in our business activities mentioned above.</p>

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai

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. Sri Dhanalakshmi Welding Works, 34, Veerakaliamman Koil Street, Jaihindpuram, Madurai (hereinafter called the Applicant) is engaged in manufacturing, erection and commissioning, reconditioning, repairing and maintenance of milk dairy machinery and its equipments at Dairy sector. They are registered under GST with GSTIN 33AHSPA0553H2ZL. The applicant has sought Advance Ruling on:

1. Clarify whether their dairy machinery works is liable to tax at 12% (HSN 8434) or 18% (HSN 8413)
2. In dairy machinery works they have taken milk processing, milk chilling, refrigeration system, milk handling equipments, milk packing equipments and milk allied product making machinery.
3. For such supply and erection of dairy machinery it involves service charges also. If so what will be the rate of tax on the service charge component.
4. Whether their nature of activities falls under works contract or not. If so what will be the rate of tax and its HSN code and what are the details of entries to be made in monthly return GSTR 1.
5. Clarify the applicability of E way bill procedures for their business activities which involves goods sent on delivery challan for erection purpose and bill made subsequently and for taking back the machinery to their place for maintenance and what are the transport documents to be used for the above mentioned business activities.

The Applicant has submitted the copy of application in Form GST ARA - 01 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. The applicant has stated that they are involved in manufacturing, erection and commissioning, reconditioning, repairing and maintenance of milk dairy machinery and its equipments at Dairy Sector. They have also stated that they

regularly carry out the above said works by way of tender or quotation which is called for by co-operative milk producers union ltd., at various districts in Tamil Nadu.

3. The Authorized Representative of the Applicant was heard in the matter on 30.11.2018. Shri. M.Nagarajan, Engineer of the Applicant Company appeared for the hearing. He stated that they do repair/erection /replace of Plant/ Machinery for dairies. They either supply only labour or machinery and labour. The dairy raises enquiry for which quotation is raised by them on which work order is given to them. They wanted to seek clarification if the supply is works contract. The applicant undertook to furnish copies of all enquiry, PO, Work Order, invoices, input invoices in 2 weeks.

3.1 The applicant was offered another opportunity of hearing on 22.02.2019. Shri. M. Nagarajan appeared and submitted that they procure materials, fabricate the same and install. In case, if they are issued with a contract they provide the maintenance service also. They also stated that they have a contract for supply of machinery for which they have sought clarification. The applicant furnished the letter calling for Sealed quotations addressed to them by Tiruchirappalli Dist. Coop. Milk producers Union Ltd for 'Ammonia 7X7 Frick Compressor, IBT Tank liquid separator in pipe line replacement work for Karur CC work'; Price negotiating letters; Work Order; Invoice raised by them and similar set of documents in respect of the works carried out by the applicant for 'The Kancheepuram – Thiruvallur District Co-operative Milk Producers' Union Ltd'.

3.2 The applicant in their letter dt 12.03.2019 further stated that they have already furnished all the relevant work orders for which they seek classification.

4. From the submissions of the applicant it is seen that the applicant is awarded work order by the Tiruchirapalli District Coopertive Milk Producers Union Ltd, to carry out the work towards the 7X7 Frick Ammonia Compressor, IBT Tank Liquid Separator in pipeline repairing and replacement work at Karur at a cost of Rs. 82,000/- (excl GST). As per the option of works sought by the tender document, the work involves supply of materials of 2" dia M.S pipe, liquid seperartor and pipeline M.S fittings; alteration wok for liquid oil separator (cutting, welding, removal alteration work) with consumables for welding such as bolt, nuts and other materials, liquid separator and m.s pipe line insulation and aluminium gaskets

work materials with labour charges; material transportation, loading and unloading and handling charges. It is seen that the quotation sought is for all the above supply together and the quotation given by the applicants also a single price for all. The work order shows GST at 18% and the invoice raised by the applicant is for "maintenance and repair services for ice bank tank liquid separator in pipe line repairing and replacement with necessary pipe and pipe fittings" with HSN /SAC 998717 and GST 18%. The applicant was also awarded another work contract by the Kanchepuram Thiruvallur District Co-operative Milk Producers Union Ltd, Thiruvallur for removing existing suction pipe lines with header, providing new suction header and interconnecting ice bank tank compressors with pipelines, laying insulation for the pipe lines and gladding the insulation with aluminum sheet at Kakkalur Diary with at an estimated cost of Rs.82500/- (excl GST). In this case to the invoice is a single one for with complete supply with HSN /SAC 998717 and GST 18%. In both the cases it is seen that the work includes supply of Materials and charges for works. From the invoices raised it is seen that the works undertaken is 'Maintenance and Repair Service of existing dairy machinery involving supply of relevant materials. The applicant has not furnished any relevant work order/invoices in respect of supply of various dairy machinery for which they seek clarification in their application. Furthermore, though in the Personal Hearing, it is stated that they have a contract for supply of machinery, the details of the same is not furnished before us.

5. The jurisdictional authority- Commissioner of Central GST & Central Excise, Madurai has furnished the comments on the questions raised by the applicant which is reproduced below:

Sl.No.	Clarification sought for	comments
1	Our dairy machinery works is liable to tax at 12%(HSN Code-8434) or 18%(HSN Code-8413) kindly clarify	Milking machinery and Dairy Machineries are classifiable under HSN 8434 and rate of tax is 12 % (6% CGST and 6%SGST)
2	In dairy machinery works, we have taken milk processing, milk chilling Refrigeration system, milk handling equipment's and milk packing equipment's and milk allied product making machinery.	----

3	For such supply and erection of dairy machinery it involves service charges also. If so what will be the rate of tax on the service charges component (Bill model is enclosed here with)	The activity of erection of dairy machineries falls under the service of “Commissioning erection and installation services” SAC code 998732 and rate is 18% (9% CGST and 9 %SGST)
4	Whether our nature of activities fall under works contract or not. If so what will be the rate of tax and its HSN code. Also inform the details of entries to be made in monthly return GSTR 1.	<p>The Works Contracts has been defined in Section 2(119) of the CGST Act, 2017 as “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.”</p> <p>The work undertaken by the applicant is not relating to any immovable property. Therefore the activity of erection and commissioning and installation of machinery undertaken by the applicant does not fall under the category of works contract.</p> <p>On the other hand their activity can be divided into two part parts viz (i) supply of goods i.e Milking machinery and dairy machinery attracting 12% GST as mentioned in para 1 above</p>

		and (ii) installation of machineries classifiable under supply of “Commissioning erection and installation services” attracting 18% GST on the installation charges as mentioned in para 3 above.
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6. We have carefully examined the statement of facts, supporting documents filed by the Applicant and also comments furnished by the Commissioner, Madurai Commissionerate, and heard the arguments made by the Applicant at the time of hearing on 19.11.2018 & 22.02.2019. The questions raised seeking ruling are:

1. Whether the dairy machinery works is liable to tax at 12% (HSN Code- 8434) or 18% (HSN Code- 8413)
2. In dairy machinery works, they have taken milk processing, Milk chilling Refrigeration system, milk handling equipment's and milk packing equipment's and milk allied product making machinery. For such supply and erection of dairy machinery it involves service charges also. If so what will be the rate of tax on the service charges component
3. Whether their nature of activities fall under works contract or not. If so what will be the rate of tax and its HSN code. Also inform the details of entries to be made in monthly return GSTR1
4. Kindly clarify the applicability of E-way bill procedures for their business activities

Of the above, the question on the applicability of E-way bill procedures (No. 4 above) and also that relating to the details of entries to be made in the monthly return (Part of Question No. 3 above) are procedural and are not covered under the purview of Advance Ruling as per Section 97(2) of CGST Act. Therefore, the said questions are not answered. In respect of the other questions, the same are within the purview of this Authority as per Section 97 of the CGST/TNGST Act and are taken up for consideration and decision.

7. The applicant has sought clarification as to whether dairy machineries are to be classified under HSN 8434 attracting 12% GST or HSN 8413 charging 18% GST. They have stated that they have a contract for supply of machinery for which they seek classification. The Applicant is stated to be involved in dairy machinery work which involves supply of machinery for milk processing, milk chilling refrigeration

system, milk handling equipments, milk processing equipments and milk allied product making machinery. The Jurisdictional Authority has remarked that the goods are classified under CTH 8434 attracting 12% GST. However, the applicant has not furnished the details of the said contract, such as Purchase Order, Work Order, etc to consider and clarify. Therefore no ruling is furnished.

8. The question no. 2 raised by the applicant provides the activity undertaken by them & in question No.3 has sought the applicable rate of tax on such supplies. The applicant has furnished the details of Enquiry by the Coop Milk Producers' Union Ltd, Work Order, invoice in respect of the works undertaken by them at Karur CC and Kakkalur diary. The work at Karur CC is 'Alteration of Refrigeration System Accumulator with replacing pipe line and fittings' and the same is undertaken by the applicant as 'Maintenance and Repair Service'. The work at Kakkalur diary is 'Providing new header to Inter-connected ICE Bank Tank 3 Nos to Accel compressor' and the same involves removal of existing suction pipes and laying new MS pipes with suitable size thermocole insulation and gladding with Aluminium sheet, which is undertaken by the applicant as 'Maintenance and Repair Service' (as seen from the Invoice raised by them). From the various documents furnished in connection with the two works undertaken by the applicant as stated above, it is seen that the works undertaken includes materials, handling of materials and labour charges. The works are Repair/ Replacement works of the existing structures, involving replacement of the materials like M.S. pipes, valves, fittings, etc, laying the pipes, etc and handling of the said materials. Thus the nature of works carried-out by the Applicant are composite supply. Composite supply is defined under Section 2 (30) as:

“composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply:”

In the case at hand, in both the works, the applicant undertakes Repair/ Replacement services related to the Cooling Structures (Ice Bank Tanks) in the Dairy Units of the Coop. Milk Producers Union Ltd. The materials which are to be replaced/ required are also included in the Work Order but the amount / quote is for the entire repairing/ replacement work. Thus, it is clear that the supply made is 'Composite supply' in which the repairing/replacement work, i.e., the service of maintenance, repair and installation is the principal supply.

Explanatory Notes to Classification of Services states:

9987 Maintenance, repair and installation (except construction) services

998717 Maintenance and repair services of commercial and industrial machinery

This service code includes maintenance and repair services of engines and turbines (except aircraft, vehicle and cycle engines), pumps and compressors, taps and valves, furnaces and furnace burners, lifting and handling equipment, nondomestic cooling and ventilation equipment, agricultural and forestry machinery, machine tools, machinery for metallurgy, machinery for mining, quarrying and construction, machinery for food, beverage and tobacco processing, machinery for textile, apparel and leather production, machinery for paper and paperboard production, weapons and weapons systems, agricultural, forestry and garden tractors and lawnmowers, other general-purpose machinery and special-purpose machinery n.e.c.

The said service is classifiable under SAC 998717

The applicable rate of tax is 9%-CGST under Sl.No. 25(ii) of Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 as amended and at 9% -SGST under Sl.No. 25(ii) of Notification No.II (2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended

S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
470	Heading	9987	Maintenance, repair and installation (except construction) service

9. The fourth question raised by the applicant and taken for consideration is whether their nature of activities falls under works contract or not. If so what will be the rate of tax and its HSN code. The definition for works contract as per Section 2(119) of CGST Act is as follows:

“works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

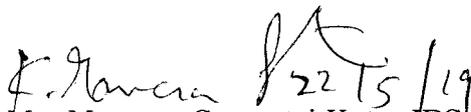
Thus only those activities of repair, maintenance of any immovable property wherein transfer of property in goods is involved alone are ‘Works Contracts’.

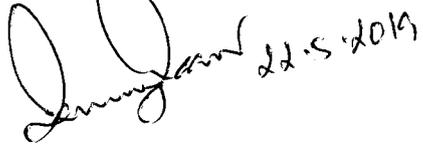
In the above case, it is seen from the work order submitted by the applicant that the work undertaken by the applicant is related to repair/replacement/installation of pipelines, alteration in the liquid separator by using necessary pipelines and fittings and also maintenance and repair services for the ice bank liquid separator in pipeline which are part of machinery used in dairy industry. The work undertaken by the applicant is not relating to any immovable property. Therefore the activity undertaken by the applicant does not fall under the category of Works contract.

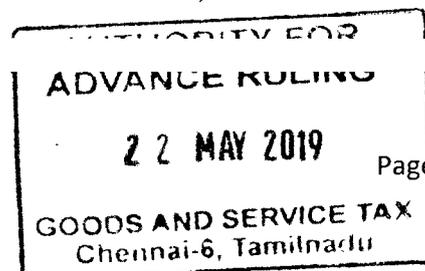
10. In view of the above, we rule as under.

RULING

1. The applicable classification of the dairy Machinery cannot be pronounced as no details of such supply were produced.
2. The activity of Supply undertaken by the applicant in respect of the awarded work order by the Tiruchirapalli District Coopertive Milk Producers Union Ltd, to carry out the work towards the 7X7 Frick Ammonia Compressor, IBT Tank Liquid Separator in pipeline repairing and replacement work at Karur and work order by the Kanchepuram Thiruvallur District Co-operative Milk Producers Union Ltd, Thiruvallur for providing new header to Inter connecting ice bank tank with Accel Compressor and gladded insulation with aluminium sheet is classifiable under SAC 998717 and the applicable rate of tax is 9%-CGST under Sl.No. 25(ii) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended and at 9% -SGST under Sl.No. 25(ii) of Notification No.II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended
3. The Activity of the applicant are not 'Works Contract' as defined in Section 2(119) of the CGST/TNGST Act 2017
4. The applicability of E-way bill procedure and the details to be filled in GSTR-1 are not answered as the same are not in the purview of Advance Ruling as per Setion 97 of the CGST/TNGST Act 2017.


Ms. Manasa Gangotri Kata, IRS
Member, CGST


Shri. Kuringi Selvaan.V.S., M.Sc.,(Agri), M.B.A,
Member, TNGST



To
Mrs. Rajendrababu Ambika
(Proprietor of M/s. Sri Dhanalakshmi Welding Works)
No. 14, Veerakalaianman Koil Street,
Jaihindpuram
Madurai. 625 011.
TamilNadu.

// BY SPEED POST WITH ACK.DUE //

Copy Submitted to:

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

Copy to:

1. The Assistant Commissioner (ST),
Kamarajar Salai Assessment Circle,
Commercial Taxes Building,
Dr.SVKS Thangaraj Salai,
Madurai - 625 020.
2. The Commissioner of GST & C.Ex.,
Madurai Commissionerate.
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
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3. Master File/ Spare - 2.

