

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI – 600 003.**

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

Members present:

Shri R.Gopalsamy, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600034	Tmt N.Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600003
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Advance Ruling No.06/ARA/2023 Dated: 31.03.2023

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, 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.
5. 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.

GSTIN Number, if any / User id		33AEJFS5190J1ZO
Legal Name of Applicant		Samco Logistics LLP
Registered Address / Address provided while obtaining user id		New No.4 (Old No.44), Audiappa Street, Purasaiwakkam, Chennai - 600084.
Details of Application		GST ARA - 01 Application Sl.No.29/2022 dated 13.05.2022
Jurisdictional Officer		Centre : Chennai North Commissionerate ; Division: Purasawakkam
Concerned Officer		State : Purasawakkam Assessment Circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Warehouse
B	Description (in brief)	Applicant is a Limited Liability partnership firm engaged in providing Services by way of Renting its Warehouses to Store Agricultural Produce like Fruits &Vegetables.
Issue/s on which advance ruling required		1. Applicability of a notification issued under the provisions of GST Act 2. Determination of the liability to pay tax on any goods or services.
Question(s) on which advance ruling is required		1. Whether the Rental Income to be received by the Applicant from Renting Warehouse to store Agricultural Produce is a consideration for supply and the activity is covered under the meaning of supply of services in terms of Section 7 of the Central Goods and Services Tax Act, 2017? 2. If the above activity is considered as supply of service, then whether the same is classifiable as "loading, unloading packing, storage or warehousing of agricultural produce, with 'NIL' GST Rate under Sl. No. 54(e) of SAC 9985 of the Notification- 11/2017- C.T. (Rate) dated 28th June 2017? 3. GST Rate and SAC Code applicable (if answer to point no.2 above is "No")

1. The applicant 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.
- 2.1 The Applicant, as Lessor to provide Warehouse to Lessee on rental basis to store Agricultural produce, ie Frunits & Vegetables.
- 2.2 The Lessee Purchases these Fruits & Vegetables from Farmers and Traders directly and stores the same in the Warehouse of Lessor.
- 2.3 Later, the Lessee packs these Fruits & Vegetables without any further processing as such for Sale.
- 2.4 On interpretation of law, applicant states that as per Notification-11/2017-C.T. (Rate) dated 28th June 2017, "agricultural produce" means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.
- 2.5 The applicant relies on Entry No 54(e) under the Notification No. 12/2017 C.T (Rate) dated 28.06.2017, to claim exemption for the Services by way of Renting the Warehouse to store Fruits & Vegetables that attract "NIL" rate of GST.
- 2.6 The applicant refers to advance ruling passed by AAR Andhra Pradesh in the case of M/s SSSVK Cold Storage Private Limited holding that Services by way of Renting Warehouse for Storage of Agriculture produce falls under Service Account Code (SAC) 998619 and attracts NIL rate of GST vide AAR/AP/02(GST)/2018.
- 3.1 The applicant, after consent, was given an opportunity to be virtually heard on 17.08.2022. The Authorized Representative (AR) Sri D.Anudeep Kumar, of the applicant appeared before the authority and reiterated the submissions. When asked about the nature of service provided by the applicant to the Lessee of the Warehouse, AR stated that renting of immovable property service is provided by the applicant / Lessor. The Lessee is rendering Supply chain service from the leased Warehouse to their customers. The AR was asked to furnish copy of Rental /Lease Agreement between applicant / Lessor and Lessee, copy of invoice issued by applicant to Lessee and copy of invoice issued by Lessee to their customers.

Consequent to change of members of Authority, a fresh personal hearing was extended to the applicant. AR Sri Sukumar Reddy appeared for the virtual hearing on 12.01.2023, wherein he reiterated the submissions already made and further stated that the leased property is being used by the Lessee for storage of agricultural goods attracting Nil rate of GST and if different view is taken, then requested for rate of GST and SAC.

3.2. The applicant vide letter dated 14.09.2022 submitted copy of Lease Agreement dated 14.03.2022, along with Indemnity Bond, entered into between the applicant and M/s 63 Ideas Infolabs Private Limited, the Lessee, copy of invoices issued by the Lessee to their customers and copy of invoice issued by the applicant to the Lessee. The Invoice No.8/22-23 dated 28.07.2022 issued by the applicant to M/s 63 Ideas Infolabs Private Limited with the service description "Rental or Leasing services involving own or leased non-residential property rent for the month of August 2022" without charging any amount towards GST. The copy of invoices issued by M/s 63 Ideas Infolabs Private Limited, the Lessee, to their customers indicates supply of various vegetables without GST.

3.3 The Lease Agreement dated 14.03.2022, inter alia, states that the Lessee is engaged in the business of wholesale trade of fresh fruits, vegetables and other products has approached the Lessor / applicant with a request to grant lease to use and occupy schedule property against payment of agreed monthly rent during the lease period. The Lessee shall be entitled to make use of the schedule property for buy/sale of fresh fruits, vegetables and other related purpose and for any lawful business without any restriction. It is specifically agreed between the parties that the Lessee shall be entitled to assign, under lease or sublease or sublet or grant leave or license of the schedule premises or any part thereof or part with possession the schedule property or any part therefor in any manner and all the terms and conditions of this lease shall be applicable to the sub-lease.

3.4 The Indemnity Bond dated 14.03.2022 executed by the applicant with the Lessee, inter alia, states that with respect to Notification No.12/2017 C.T (Rate) dated 28.06.2017 under entry No.54(e), GST applicable on warehousing of agricultural produce is Nil rate subject to the condition that the support service is extended to the agricultural produce only. Based on the above notification, the Lessor shall approach GST Advance Ruling Authority and in case the Authority gives adverse ruling on the subject, the Lessee shall pay / reimburse the GST at

applicable rates to the Lessor.

4.1 The applicant is under the administrative control of Central Tax. The said jurisdictional authority was addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the ARA application and for comments on the issues raised. The said authority vide letter dated 19.09.2022 stated that there are no pending proceedings on the issue raised by the applicant in the ARA application. It is further stated that Sl. No.24(e) of Notification No.11/2017 C.T (Rate) dated 28.06.2017 provides for exemption from GST in respect of supply of services rendered for storage in relation to agricultural produce and the term 'agricultural produce' has been defined under clause 2(d) of Notification No.12/2017 C.T (Rate) dated 28.06.2017 as amended. The notification is with regard to service supplied and not person specific. As such, the entry No. 24(e) is equally applicable for storage services in respect of agricultural produce of both the farmers and traders.

4.2 The jurisdictional authority, relying on the statement of facts given by the applicant, further states that the applicant is not directly providing the service of renting of warehouse to farmers. The applicant as Lessor has provided warehouse to the Lessee on rental basis, who is further providing warehouse to farmers for storage, packing and selling of agricultural produce, which means the applicant are involved in services relating to rental / lease business. Thus, the said activity amounts to renting / leasing of immovable property and does not fall within the ambit of storage services for claiming exemption under Sl. No.24(e) of Notification No.11/2017 C.T. (Rate) dated 28.06.2017.

4.3 Accordingly, the jurisdictional authority opines that applicant is providing renting of immovable property service in terms of clause (a) of para 5 of Schedule II to GST Act, 2017 and attract GST @ 18% under SAC 9972 as per residuary entry at Sl. No.16 of Notification No.11/2017 C.T (Rate) dated 28.06.2017.

5. The State Tax Officer vide letter Rc. No.164/2022/A4 dated 18.05.2022 stated that no pending proceedings against M/s Samco Logistics LLP on the issue raised by the applicant.

6.1 We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearings and the comments furnished by the Centre and State Tax Authorities. The

applicant filed advance ruling application for determination of the liability to pay tax on service and to ascertain the applicability of notification issued under the Act, within the meaning of that term as per Section 97(2)(e) and 97(2)(b) of GST Act, 2017. We also take cognizance of the fact that subject matter of the application viz renting of warehouse for storage of fruits and vegetables in the course of trading by the Lessee has been done and the warehouse continue to be in the possession of the Lessee for the said purpose, thereby fulfills the requirement of Section 95(a) of the Act.

6.2 The question which needs to be answered is whether renting warehouse to Lessee to store agricultural produce by the Lessee constitute supply of service in terms of Section 7 the Act, if so, whether it is classifiable as "loading, unloading, packing, storage or warehousing of agricultural produce with Nil rate of GST vide Sl. No. 54(e) of Notification No.11/2017 C.T. (Rate) dated 28.06.2017, if not, its GST rate and SAC.

7.1 It is seen from the submissions and documents enumerated in para 3.2 supra that the applicant has supplied "Rental or Leasing Services involving own or Leased non-residential property" to the Lessee viz M/w 63ideas Infolabs Private Limited. The applicant chose not to mention the SAC in the Invoice issued to Lessee and not to collect GST from the Lessee pending ruling by advance ruling authority on the eligibility for exemption as the collection of GST from the Lessee is secured by Indemnity Bond.

7.2 The copy of Indemnity Bond submitted by the applicant, discussed in para 3.4 supra, relies on entry No.54(e) of Notification No.12/2017 C.T (Rate) to seek advance ruling to determine GST liability on the property leased by the applicant to the Lessee. However, the applicant has sought advance ruling on classification of services of renting of warehouse to store agricultural produce under entry No. 54(e) of Notification No.11/2017 C.T (Rate), which appears to be an apparent error, as entry No.24(e) of Notification No.11/2017 C.T (Rate) is similar to entry No.54(e) of Notification No.12/2017 C.T (Rate). In short, there is no entry No. 54(e) in Notification No.11/2017 C.T (Rate). However, the applicant, while interpreting law in column 16 of AAR application, has relied on entry No.54(e) of Notification No.12/2017 C.T (Rate) to seek Nil rate of GST and relied on meaning of 'agricultural produce' under notification No.11/2017 C.T (Rate). In the personal hearing held on 12.01.2023, the applicant stated that the leased property is being used by the

Lessee for storage of agricultural goods attracting 'Nil' rate of GST and if different view is taken, he requested to state the rate of GST and SAC.

8.1 For ease of reference, the relevant entries of Notification No.11/2017 C.T (Rate and 12/2017 C.T (Rate) are reproduced below;

Notification No.11/2017 I.T (Rate) dated 28.06.2017 entry No. 24(e) is as follows;

Sl. No.	Chapter / Heading / Sub- heading / Tariff item	Description of Goods
24	Heading 9986 (Support services to agriculture, hunting, forestry, fishing, mining and utilities)	(i) Support services to agriculture, forestry, fishing, animal husbandry. Explanation. - —Support services to agriculture, forestry, fishing, animal husbandry mean - (i) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— (a) (e) loading, unloading, packing, storage or warehousing of agricultural produce;

Notification No.12/2017 I.T (Rate) dated 28.06.2017 entry No. 54(e) is as follows;

Sl. No.	Chapter / Heading / Sub- heading / Tariff item	Description of Goods
54	Heading 9986	Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— (a) . . . (b) . . . (e) loading, unloading, packing, storage or warehousing of agricultural produce;

8.2 Perusal of entry No.16 (iii) of Notification No.11/2017 C.T (Rate) dated 28.06.2017 read with Heading No.9972 of Classification Scheme for Services under GST reveals that 'Rental or leasing services involving own or leased non-residential property' is classifiable under SAC 997212 and it attracts GST @ 18%.

8.3 It is pertinent to note that the Invoice issued by the applicant to the Lessee also bears the service description of 'Rental or leasing services involving own or leased non-residential property' without the mention of its SAC.

8.4 Perusal of the recitals of Lease Agreement dated 14.03.2022 between the applicant and the Lessee reveals that Land and building specified in the Schedule 'A' Property has been allowed to be used for buying and selling of fresh fruits, vegetables and related purpose and for any lawful businesses without any restriction and the Lessee is further entitled to assign under lease or sub-lease or grant leave or license of the schedule premises or any part thereof.

8.5 Further, perusal of 'Tax invoices' issued by the Lessee from the Schedule property reveals supply of fruits and vegetables to various customers without GST.

8.6 From comprehensive reading of various documents and the averments of the applicant, we find that the applicant has rented the immovable property to the Lessee and the Lessee in turn have used the said property for trading activity in fruits and vegetables. In other words, leasing of immovable property by the applicant is an input service for the trading activity of the Lessee. With regard to the question whether renting of warehouse is covered within the meaning of supply of service in terms of Section 7 of the Act, we have no hesitation to hold that the said activity is well covered by Section 7 of the Act, as it fulfils the requirements specified under Section 7(1)(a) of the Act to constitute supply.

8.7 The question to be answered is with reference to the activities of the applicant, which we observe from the Lease Agreement and the Invoice issued by the applicant that it is squarely covered under the entry 'Rental or leasing services involving own or leased non-residential property' classifiable under SAC 997212 and it attracts GST @ 18% vide entry Sl.No.16(iii) of Notification No.11/2017 C.T (Rate) dated 28.06.2017.

8.8 The activities of the applicant and Lessee is not covered under any of the activities specified under entries 24(e) of Notification No. 11/2017 C.T (Rate) and 54(e) of Notification No.12/2017 C.T (Rate) dated 28.06.2017.

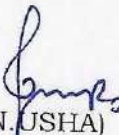
8.9 The applicant had relied upon the decision of AAR, Andhra Pradesh on an AR application filed by M/s S S V K Cold Storage Private Limited wherein it was ruled that storage and warehousing service of agricultural produce to farmers and traders falls under SAC 9986 and exempted under entry No.54 (e) of Notification

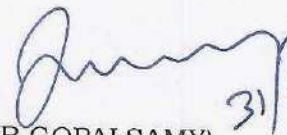
No.12/2017 C.T (Rate) dated 28.06.2017. The said ruling was given under facts different from the facts of the applicant under consideration. In the present application, the applicant has rented the warehouse to the Lessee for storing agricultural produce for trading activity, whereas in the ruling relied by the applicant, the applicant is rendering service of storing and warehousing of agricultural produce covered under entry No.54 (e) of Notification No.12/2017 C.T (Rate) dated 28.06.2017.

9. In view of the above, we rule as under;

RULING

1. Rental Income received by the applicant from Renting Warehouse to store Agricultural Produce is a consideration for supply and the activity is covered under the meaning of supply of services in terms of Section 7 of the Central Goods and Services Tax Act, 2017.
2. Renting Warehouse to store Agricultural Produce is considered as supply of service, and the same is not classifiable as "loading, unloading packing, storage or warehousing of agricultural produce, with 'Nil' GST Rate under Sl. No. 54(e) of SAC 9985 of the Notification-11/2017- C.T. (Rate) dated 28th June 2017.
3. Renting Warehouse to store Agricultural Produce covered under the entry 'Rental or leasing services involving own or leased non-residential property' classifiable under SAC 997212 and it attracts GST @ 18% vide entry Sl. No.16 (iii) of Notification No.11/2017 C.T (Rate) dated 28.06.2017.


(N. USHA)
Member (SGST)


(R. GOPALSAMY)
Member (CGST)



To

M/s Samco Logistics LLP,
New No.4 (Old No.44), Audiappa Street,
Purasaiwakkam, Chennai – 600084.

//By RPAD//

Copy submitted to:-

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam,
Chennai - 600 034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Principal Commissioner of GST & C.Ex.,
Chennai North Commissionerate.
4. The Assistant Commissioner,
Purasavakkam Assessment Circle, Chennai - 600102.
5. Master File / spare - 1.

