



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri S.V.Kasi Visweswara Rao, Additional Commissioner (State Taxes)
Sri Sahil Inamdar IRS., Additional Commissioner (Central Taxes)

A.R.Com/03/2023

Date:09.02.2024

TSAAR Order No.06/2024

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s.Narayan Trading Corporation, Shop No 136, Sri Krupa Market, Malakpet, Hyderabad, Telangana- 500 036 (36AABFN4585E1Z9) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- under SGST and Rs. 5,000/- under CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided nor are pending before any authority under any provisions of the CGST/TGST Act'2017. The application is, therefore, admitted after examining it and the records called for and after hearing the applicant as per section 98(2) of TGST Act'2017
4. **BRIEF FACTS OF THE CASE:**
The applicant M/s. Narayan Trading Corporation "GSTIN:36AABFN4585E1Z9" is a registered taxpayer under the CGST & SGST Act, 2017 and is actively engaged in the trading of Food grains, Sugars, Edible Oils etc., for the past 30 Years and is a government contractor for supply of above said items directly and through nodal agencies as appointed by the Ministry from time to time.

It is submitted by the applicant that they are making supplies to M/s. Hyderabad Agricultural Co-operative Association Limited (HACA) Hyderabad, which has come into being in the year 1949, to serve the farming community of the erstwhile State of Hyderabad. That HACA commenced

functioning from 01.07.1949. Originally, the area of operation of the society covering (16) districts of the then Hyderabad State. The Society thus comes under the Multi State Co-operative Societies Act 1984. HACA is an Apex Co-operative Marketing Society of the erstwhile state of Hyderabad.

They submitted that the levy of GST on unbranded food grains, pulses, flours etc., has come to forefront only after the introduction of Notification No. 6/2022 - Central Tax (Rate) dated 13th July 2022. A copy of the notification is enclosed herewith. The relevant extracts of the notification are as follows:

S.No.B(xvi) "for the portion beginning with the words "and put up in unit container and bearing a brand name", the words "pre-packaged and labeled" shall be substituted;"

That the press release dated 18th July 2022, titled FAQs on GST has clarified applicability on 'pre- packaged and labeled' goods. They require a clarification in this regard. Hence this application.

4.2 Company Background:

M/s. Narayan Trading Corporation is a registered taxpayer under the CGST & SGST Act, 2017 and is actively engaged in the trading of Food grains, Sugars, Edible Oils etc., for the past 30 Years and is a government contractor for supply of above said items directly and through nodal agencies as appointed by the Ministry from time to time. M/s. Hyderabad Agricultural Co-operative Association Limited (HACA) Hyderabad has come into being in the year 1949, to serve the farmers community of the erstwhile State of Hyderabad and commenced functioning from 01.07.1949. Originally, the area of operation of the society covering 16 districts of the then Hyderabad State. The Society thus comes under the Multi State Co-operative Societies Act 1984.

5. QUESTIONS RAISED:

Q1. Whether Department for Women, Children, Disabled & Senior Citizens is covered under the definition of "industrial consumer or institutional consumer"?

Q2. Whether the goods supplied by the applicant through the Nodal Agency - Hyderabad Agricultural Co-operative Association Limited (HACA) attracts GST?

6. PERSONAL HEARING:

The Authorized representatives Sri M. Ravi Teja Reddy, CA & AR attended the personal hearing held on 20.03.2023. The authorized representatives reiterated their averments in the application submitted and contended as follows:

Further, the Authorized Representative/Applicant M/s. Narayan Trading Corporation, Hyderabad, reiterated that their case /Similar Case is not pending in any proceedings in the applicant's case under any of the provision of the Act and have not already decided in any proceedings in the applicant's case under any of the provisions of the Act.

7. DISCUSSION & FINDINGS:

The commodity under question i.e., redgram or pigeon pea is classified as HSN 0713 60 00. As on 13-07-2022, S.No.215 of Schedule-I of Notification No.1 of 2017 as amended vide Notification No.18 of 2018 dt: 26-07-2018 stood as follows with respect to this commodity:

S.No	Chapter / Heading / Subheading / Tariff item	Description of Goods
1	2	3
25.	0713	Dried leguminous vegetables, shelled, whether or not skinned or split *[put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or any enforceable right in respect of such brand name has been voluntarily foregone, subject to the conditions as in the ANNEXURE]] (*Substituted vide Notification No. 27/2017, Dt.22/09/2017) Earlier it was read as "put up in unit container and bearing a registered brand name".

The **Notification No. 06/2022 Central Tax Rate, issue on 13th July 2022**, changed this position and certain commodities were made taxable if they are in Pre-Packaged & Labeled form. And the amendment to this entry was made as under:

(v) against S.No.25, column (3), for the portion beginning with the words "put up in" and ending with the words as in the ANNEXURE}"; the words, ", pre-packaged and labelled" shall substituted;

The Notification No.6 of 2022, dt: 13-07-2022 has replaced explanation in clause (ii) after the Schedule-VII as follows:

*'The expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (i) of **section 2 of the Legal Metrology Act, 2009 (1 of 2010)** where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made there under.'*

Thus as per Notification No. 06/2022 Central Tax Rate, issue on 13th July 2022, certain commodities were made to be taxed if they are in Pre-Packaged & Labelled form.

The expression 'pre-packaged and labelled' was given the same meaning as 'pre-packaged commodity' defined in clause (i) of section 2 of the Legal Metrology Act, 2009 (1 of 2010).

Further, the Ministry of Finance has issued FAQs on applicability of GST on pre-packaged and labelled goods on 18.07.2022 and at FAQ No.7 for the question regarding industrial / institutional it is clarified as follows:

Q: *Whether tax is payable if such packaged commodities are supplied for consumption by industrial consumers or institutional consumers?*

Clarification: *Supply of packaged commodity for consumption by industrial consumer or institutional consumer is excluded from the purview of the Legal Metrology Act by virtue of rule 3 (c) of Chapter-II of Legal Metrology (Packaged Commodities) Rules, 2011. Therefore, if supplied in such manner as to attract exclusion provided under the said rule 3(c), it will not be considered as pre-packaged and labelled for the purposes of GST levy.*

As per Rule 3 of Legal Metrology (Packaged Commodities) rules 2011 as amended from 01.01.2018 vide Notification of Ministry of Consumer affairs in G.S.R.629 (E) dt: 23.06.2017 the application of these rules under the chapter shall not apply to:

- (a) Packages of commodities containing quantity of more than 25 kilogram or 25 litre;
- (b) Cement, fertilizer and agricultural farm produce sold in bags above 50 kilogram; and
- (c) Packaged commodities meant for industrial consumers or institutional consumers.

Thus Supply of packaged commodity for consumption by industrial consumer or institutional consumer is excluded from chapter-II of legal Metrology (Packaged Commodities) rules 2011.

Hence such supplies do not attract CGST & SGST.

The definition of institutional consumer was amended by substituting clause (bc) to rule 2 of the The definition of institutional consumer is given rule 2(bc) of Legal Metrology (Packaged Commodities) Rules, as amended vide Notification of Ministry of Consumer affairs in G.S.R.629 (E) dt: 23.06.2017 stands as follows:

`(bc) "institutional consumer" means the institution which buys packaged commodities bearing a declaration `not for retail sale", directly from the manufacturer or from an importer or from wholesale dealer for use by that institution and not for commercial or trade purpose.

The Department for Women, Children, Disabled & Senior Citizens in September 2022 has floated a tender for supply of Red Gram Dal Procurement through HACA who are nominated as nodal agency vide G.O. RT No. 69 dated 07/04/2017. The the supply of Red Gram is meant for all the ICDS projects in the state. The HACA will call for tenders on behalf of the Women Dev. & Child Welfare Dept., for the supply of Red Gram Dall. HACA is an agency to provide service for the proper qualitative and timely supply of Red Gram Dall to above Department as per their norms/requirements. Thus HACA is an agent on behalf of The Department for Women, Children, Disabled & Senior Citizens who is the principal who as nominated HACA as a nodal agency for the specific purpose of calling for tenders on behalf of the principal and ensure proper qualitative and timely supply of Red Gram Dall.

According to the applicant the Department for Women, Children, Disabled & Senior Citizens of the State of Telangana is buying packaged commodities, directly from the manufacturer or from wholesale dealers for use by that institution and not for commercial or trade purpose. Therefore

the said department will qualify to be an institutional consumer as long as the following conditions are fulfilled:

- i. The packaged commodities are bearing a declaration `not for retail sale`,
- ii. The purchase is made directly from the manufacturer or from an importer or from wholesale dealer
- iii. The purchase is made for use by that institution and not for commercial or trade purpose

The supplies made by the applicant will be exempt from CGST & SGST if made to the institutional consumer who is satisfying the above conditions.

8. In view of the foregoing, we rule as follows:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Whether Department for Women, Children, Disabled & Senior Citizens is covered under the definition of "industrial consumer or institutional consumer"?	YES, provided the following conditions are fulfilled: i. The packaged commodities are bearing a declaration `not for retail sale`, ii. The purchase is made directly from the manufacturer or from an importer or from wholesale dealer iii. The purchase is made for use by that institution and not for commercial or trade purpose
2. Whether the goods supplied by the applicant through the Nodal Agency - Hyderabad Agricultural Co-operative Association Limited (HACA) attracts GST?	NO, provided the following conditions are fulfilled: i. The packaged commodities are bearing a declaration `not for retail sale`, ii. The purchase is made directly from the manufacturer or from an importer or from wholesale dealer iii. The purchase is made for use by that institution and not for commercial or trade purpose


(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER (STATE TAX)


(SAHIL INAMDAR)
ADDL. COMMISSIONER (CENTRAL TAX)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s.Narayan Trading Corporation,
Shop No 136, Sri Krupa Market,
Malakpet, Hyderabad, Telangana- 500 036

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Hyderabad Commissionerate, II Floor, GST Bhavan, Basheerbagh, Hyderabad, Telangana -500004

Copy to:

3. The Superintendent (Central Tax), Old Malakpet Range