

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

Advance Ruling No. KAR ADRG 55/2021

Dated: 29.10.2021

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
Joint Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. SAS CARGO, Shop No.1, No.36, Malkappa Garden, 7 th Main Road, S.R. Nagar, Bengaluru-560 027
2.	GSTIN or User ID	29ABZFS7085F2Z5
3.	Date of filing of Form GST ARA-01	02.08.2021
4.	Represented by	Sri Nagaraj.M.R. Chartered Accountant and duly authorised representative
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Taxes, Bengaluru South GST Commissionerate, Bengaluru South Division 2, Bengaluru (Range -BSD2)
6.	Jurisdictional Authority - State	ACCT, LGSTO-40, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide CIN HDFC21072900341785

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

M/s. SAS Cargo, Shop No.1, No.36, Malkappa Garden, 7th Main Road, S.R. Nagar, Bengaluru-560027 having GSTIN 29ABZFS7085F2Z5 have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017 in FORM GST ARA-01, discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.



2. The Applicant is a Partnership Firm registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The Applicant is in the business of freight services and also holds lease rights of space/containers in Indian Railways.

3. The applicant has sought advance ruling in respect of the following questions:

- a. Whether eggs / hatcheries are classified under the Agricultural Produces/ Products?
- b. Applicability of GST on Transportation Services by Rail on Eggs/ hatcheries under GST Act?

4. **Admissibility of the application:** The question is about “applicability of a notification issued under the provisions of this Act” and hence is admissible under Section 97(2)(b) of the CGST Act 2017.

5. **Applicant’s Interpretation of Law:**

- 5.1 The applicant states that they are engaged in the business of freight services and holds lease right of space/containers in Indian railways.
- 5.2 They transport consignment all over India using the leased Indian Railway spaces.
- 5.3 The applicant states that the goods transported by them are predominantly agricultural products which are exempt from commercial taxes and their service invoice issued for same is excluding GST considering Notification 12/2017 dated 28th June 2017.
- 5.4 The Applicant states that though the Notification specifies the exemption on transportation services by rail on agricultural produces from GST but it does not clearly mention whether egg is an agricultural produce.
- 5.5 The Applicant likes to know the taxability of GST on transportation of eggs/hatcheries by rail. The Applicant states that the Railway Board has issued a circular stating “it is clarified that ‘fresh eggs’ in shell on which no further processing is done are covered under the definition of ‘Agricultural produce’ and, therefore exemption at Serial No. 20 of the notification No.12/2017 – Central Tax (Rate) dated: 28.06.2017 shall be available in case of transportation of eggs by Rail” and has submitted a copy of the same.

PERSONAL HEARING / PROCEEDINGS HELD ON 08.09.2021

6. Sri Nagaraj.M.R., Chartered Accountant & Authorised Representative of the applicant appeared for personal hearing proceedings held on 08.09.2021 and reiterated the facts narrated in their application.



FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and KGST Act, 2017 are in *pari-materia* and have the same provisions in like matter 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.

8. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by applicant and his authorized representative during the hearing. We have also considered the issues involved on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law.

9. This office had addressed a letter to the Commissioner of Central Tax, Bengaluru South GST Commissionerate, Bengaluru on 04-08-2021 to file comments on the application filed. In response to this, the Assistant Commissioner of Central Tax, South Division-2, Bengaluru South Commissionerate has furnished comments as below:

"2. M/s. SAS Cargo have filed the application for Advance Ruling under Rule 97(1) of the CGST Act, 2017 seeking a Ruling with regard to classification of Eggs/hatcheries whether clubbed under the AGRICULTURAL PRODUCES / PRODUCTS in terms of Notification No.12/2017 dated 28-06-2017.

3. However, as specifically, CGST department is also requested to furnish comments, views of this office are furnished as under for kind information please.

3.1 In terms of Sub-section (1) of Section 97 of the CGST Act, 2017, an applicant desirous of obtaining an advance ruling may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought. Further, in terms of Sub-section (2) of Section 97 of the CGST Act, 2017, the question on which advance ruling is sought shall be in respect of (a) classification of any goods or services or both (b) applicability of a notification issued under the provisions of Act.

3.2 In the instant case, the applicant is engaged in transportation of goods by rail and vide the present application, they have sought advance ruling in classification of Eggs / hatcheries whether covered under 'Agricultural produces'. The Notification No.12/2017 Central Tax (Rate) dated 28-06-2017, under Sl.No.20, exempts payment of any tax on transportation of Agriculture produces by rail or a vessel.

As per the definition given under the said Notification, under Para 2(d)

"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, fibers, 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;

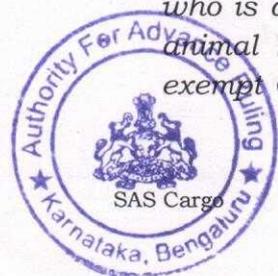
3.3 Further, it is pertinent to mention that in Finance Act, 1994, vide Section 65B, "Agriculture" is defined as 'the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;'

3.4 Whereas, in the Notification No.12/2017-Central dated 28-06-2017, though the term "Agriculture" is not defined, the 'agriculture produce' definition is straight away picked up from the definition of 'agriculture produce' appearing in Section 65B of the Finance Act, 1994. Therefore, basic factor to understand agriculture produce should emanate from the understanding of word 'agriculture'. If the agriculture means-cultivation of plants and rearing of animals. . . .," then, rearing of animals is the subsidiary activity of a cultivator in addition to cultivation. Further, this view is confirmed from the definition of "agriculture produce," which is defined as produce of agriculture 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. Therefore, 'eggs' and hatchery produce cannot be considered as 'Agriculture produce'. Kind attention is invited to clarification provided vide para 4.4.3 of Education Guide provided by the CBIC, wherein to query as to "What is the meaning of agricultural produce?" it is clarified as under:

Agricultural produce has also been defined in section 65B of the Act which means any produce of agriculture on which either no 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. It also includes specified processes in the definition like tending, pruning, grading, sorting etc. which may be carried out at the farm or elsewhere as long as they do not alter the essential characteristics.

3.5 Further, vide para 4.4.2 of the Education Guide, as to activities like breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry included in the definition of agriculture, it is clarified affirmatively as 'Yes-These activities are included in the definition of agriculture. Pisciculture, sericulture, cultivation of ornamental flowers and horticulture are all related to cultivation'. Therefore, the scope of agriculture / agriculture produce should be viewed from this perspective.

3.6 Further, it may be pointed out that a hatchery and production of eggs therefrom appear to be not an agriculture enterprise but a commercial activity. The intention of the notification appears to give relief to agriculturists / farmers who in addition to cultivation may undertake certain agro-based activities like animal husbandry, pisciculture, sericulture etc. The notification appears to exempt GST on activities / supplies covering these kinds of ancillary activities



undertaken by farmers / agriculturists. It appears that the applicant is seeking ruling as to whether eggs / hatcheries are exempted from payment of GST. It is also to bring to kind notice that there is no specific exemption applicable to services related to hatchery or produce of hatchery. The difference between the agriculture produce in real sense vis-à-vis the hatchery and eggs thereof need to be given due consideration before arriving at a conclusion.

3.7 This office is of the view that Hatchery and eggs of hatchery fall beyond the scope of agriculture produce taking into account the intension of the notification. It is also to mention that nowhere in the notification or Act or Rule or Circular, it is clarified that egg and hatchery products are agriculture produce and hence exempted from payment of GST.”

10. The applicant is engaged in the business of providing freight services and holds lease rights of space/containers in Indian railways. The applicant states that the goods transported by them are predominantly agricultural produce which are exempt from GST as per Serial No. 20 of Notification No. 12/2017 Central Tax (Rate), dated 28th June 2017.

11. The Applicant states that though the Notification stated supra, specifies the exemption from GST on transportation of agricultural goods by rail, it does not clearly mention whether eggs are covered under ‘Agricultural produce’ to claim the exemption on the same.

12. Now we have to examine whether the activity done by the applicant is exempt from tax as per Serial No. 20 of Notification No. 12/2017 Central Tax (Rate), dated 28th June 2017 and the said entry reads as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
20	Heading 9965	Services by way of transportation by rail or a vessel from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain	Nil	Nil



		including flours, pulses and rice; and (g) organic manure.		
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13. Now we have to examine whether the eggs are covered under the term “agricultural produce” for the purposes of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017. The clause 2 of the said Notification reads as under:

“ 2. Definitions.- For the purposes of this notification, unless the context otherwise requires, -

(a)

(b)

(c)

(d) “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 the cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;”

14. Eggs, including hatching eggs are obtained by rearing of chicken (Poultry Farming) directly. They are either meant for food or as raw material (hatching eggs) for further propagation, and as per definition of Agricultural Produce, “any produce out of rearing of all life forms of animals, 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.” Thus fresh eggs in shell on which no further processing is done are covered under the definition of “Agricultural Produce.” There is no condition in the definition that this has to be done by a certain type of person to qualify for the definition.

15. It can be seen from the comments of the officer that he has relied upon the section 65B of Finance Act, 1994, for the definition of ‘Agriculture’ and ‘Agricultural Produce’. Since the term ‘agricultural produce’ is clearly defined in Notification No.12/2017-Central Tax (Rate) dated 28-06-2017, we have to rely on the same rather than relying on the definitions mentioned in the erstwhile Acts.

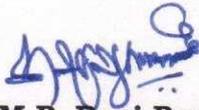
16. Since the applicant is involved in providing services of transportation of agricultural produces i.e. eggs, by rail from one place in India to another, those services are hence covered under the entry 20 of Notification No.12/2017-Central Tax (Rate) dated 28-06-2017 and hence such services are exempt by the said Notification from payment of taxes under the CGST Act.

17. In view of the foregoing, we rule as follows



RULING

- a) Eggs on which no further processing is done are covered under the definition of 'Agricultural Produce' as per clause 2(d) of Notification No. 12/2017 - Central Tax (Rate), dated 28th June 2017.
- b) Services by way of transportation of 'Eggs' by rail from one place in India to another place is exempted as per Serial No.20 of the Notification No.12/2017 Central Tax (Rate) dated 28th June 2017.


(Dr. M.P. Ravi Prasad)

Member

Karnataka Advance Ruling Authority

Place: Bengaluru - 560 009


(T. Kiran Reddy)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date: 29.10.2021

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, Bangalore South GST Commissionerate, Bengaluru South Division-2, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-40, Bengaluru.
5. Office Folder.

