

**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 16/2020**

**Date : 23-03-2020**

Present:

1. **Dr. Ravi Prasad M.P.**  
Additional Commissioner of Commercial Taxes . . . . Member (State Tax)
2. **Sri. Mashhood Ur Rehman Farooqui,**  
Joint Commissioner of Central Tax . . . . Member (Central Tax)

1.	Name and address of the applicant	M/s Megha Agrotech Private Limited, #196, Bannerghatta Road, Arekere, Bengaluru- 560076
2.	GSTIN or User ID	29AABCM8674L1ZQ
3.	Date of filing of Form GST ARA-01	18.12.2019
4.	Represented by	Sri Radhakrishna K.B., C A & DAR
5.	Jurisdictional Authority – Centre	The Principal Commissioner of Central Tax, Bangalore South Commissionerate.
6.	Jurisdictional Authority – State	LGSTO-25, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act vide CIN CORP19122900229374 dated 18.12.2019 and Rs.5,000/- under KGST Act vide CIN CORP19122900161477 dated 16.12.2019

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

1. M/s Megha Agrotech Private Limited, #196, Bannerghatta Road, Arekere, Bengaluru- 560076 (hereinafter called the 'Applicant'), having GSTIN number 29AANCA2059B1ZS, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 and Section 97 of the KGST Act, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a private limited company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

- a) Whether under section 15(2)(e) of CGST Act, for calculating "value if taxable supply", the subsidy amount granted to the farmer by Horticulture / Agriculture / Sericulture Department of Government of Karnataka under PMKSY scheme or any other Central / State Government approved schemes but disbursed to the supplier to be treated as "subsidy" in the hands of the supplier and to be excluded while ascertaining the "transaction value"?
- b) Whether the question of inclusion or exclusion of subsidy amount in the value of taxable supply would arise under Section 15(2) of the CGST Act, when such subsidy is not impacting the transaction value, which is price actually paid or payable for the supply of goods by the customer i.e., farmers and when the



subsidy is disbursed by Horticulture / Agriculture / Sericulture Department to the supplier on behalf of recipient of the supply (farmers)?

- c) Whether supplier would be entitled to refund of input tax credit accumulation, which may arise if subsidy is not treated as part of taxable value?
3. The applicant furnishes some facts relevant to the stated activity:
- a. The applicant states that he is in the business of manufacturing and supplying of LLDPE pipes and micro irrigation system and its accessories.
  - b. The applicant states that under PMKSY, Karnataka Government Departments such as Horticulture / Agriculture / Sericulture Departments are sanctioning 90% subsidy to eligible farmers who install micro irrigation system in their farm land. As a matter of policy, while the subsidy is calculated on the basis of the extent of farm land brought under micro irrigation by a farmer, the disbursement of the same is made to the supplier post supply of micro-irrigation system and post receipt of consent from the farmers for release of subsidy amount to supplier on farmer's behalf. Thus, payment towards the price of micro-irrigation system is partially received from farmers and partly the same is received from the Government departments on behalf of the farmers, as in terms of PMKSY or other schemes, Governments have granted subsidy to farmers and it is only for ease of administration, payment of subsidy are disbursed to suppliers of micro-irrigation system.
  - c. The applicant states that hitherto, the supplier is to raise invoice for the full value of micro-irrigation system sold to the farmer and charge 6% CGST and 6% SGST on the price charged in the invoice. This method is well accepted by the Horticulture / Agriculture Department of the State of Karnataka as well as Horticulture / Agriculture Department of other States.
  - d. The Applicant states that the Agriculture Department of Karnataka vide Circular No. GST/2018-19 / 2019-20 dated 08.11.2019 has given direction to the effect that no GST to be charged on the subsidy portion. Apparently, the Circular has made reference to Section 15(2)(e) of CGST Act.
4. Regarding the applicant's interpretation of law and/or facts, the applicant states as under :
- a. he is of the view that GST is payable on the price paid or payable by the farmers to micro-irrigation company and the subsidy which is granted to the farmer and used by farmers to discharge its payment obligation to the supplier (by way of giving consent to the Government Department to make payment of the same to the supplier) shall not be considered as subsidy in the hands of the supplier. Hence, he states that the amount so reimbursed is not covered under section 15(2)(e) and should be included in the value of supply and both CGST and SGST is to be charged at the applicable rates.
  - b. he is of the view that provisions of section 15(2) is not invocable in the instant scenario as the subsidy is not influencing the price charged by the supplier from its customers and hence it cannot be said to be a subsidy linked to price.

- c. he is of the view that in terms of PMKSY or other schemes, the subsidy is granted to farmers depending on certain criteria such as maximum ceiling land for which subsidy is available per farmer, lock-in period between two subsidy claims by a farmer, etc. and that it is only for administrative convenience, the disbursement is made to suppliers of micro-irrigation systems and that also post certification of installation of irrigation system by farmers, post receipt of consent from farmer for disbursement of subsidy entitlement to irrigation system supplier, etc. Therefore, when only for administrative purposes, the subsidy is distributed to the suppliers, it cannot be said that the subsidy is received by the supplier and /or it is linked to price charged by the supplier.
- d. The applicant questions that in the event, it is decided that GST is to be charged only on the non-subsidy portion, will the supplier be eligible to claim refund of unutilized input tax credit which may arise if subsidy is not treated as part of taxable value and when in their case, rate of tax on various inputs is higher than rate of tax on output.
5. Sri Radhakrishna K.B., Chartered Accountant and duly authorised representative of the above concern appeared and reiterated the submissions made by the applicant in his application and also made the following submissions:
- a. That the process of the sanction and receipt of payments are as under:
- i. The eligible farmers applies to the Government Department for the sanction of financial assistance under a scheme and the applicant has no role to play in the said transaction. The Department concerned would conduct a verification of the eligibility of the farmer for financial assistance and the applicant has no role to play even in this process.
- ii. Once approved, the farmer approaches the applicant (vendor of the materials) and obtains a quotation. In this issue, the list of vendors are shortlisted by the Government Department and the farmer is free to approach any of the enlisted vendors. The vendor of materials would provide a quotation in the name of the concerned farmer and here also the applicant has nothing to do with the Department.
- iii. The farmer then submits the quotation issued by the vendor to the Department and there are three options available for the farmer to be exercised:
1. Option 1: The farmer can use his own financial resources and gets the work executed. The farmer purchases the materials from the vendors and makes payment for the supplies received and submits the details of claim to the department. The department then sanctions the amount of financial assistance which goes to the farmer's account directly. There is no contract or contact between the department and the applicant vendor and the contract is only between the vendor applicant and the farmer and is clearly of supply to the farmer for the invoiced amount. There is no mention of the subsidy amount and irrespective of the fact whether the farmer receives assistance from the Government or not, the farmer is liable to pay the full consideration to the vendor applicant. There is no privity of contract between the applicant vendor and the Government Department.



2. Option 2: The farmer concerned takes loan from Banks or financial institutions and it is these banks which finance the project, either as a standalone project or as a part of a bigger project. The Banks pays the consideration to the vendor applicant for the supply of materials from the loan account of the farmer and the financial assistance provided by the Government Department is directly credited to the loan account of the farmer. Even in this model, there is no privity of contract between the vendor applicant and the Government Department in deciding the price and also not even with the Bank. The contract is only between the farmer and the vendor applicant and whether the farmer receives assistance from the Government or not, the farmer is liable to pay the full consideration to the vendor applicant. The Bank pays the full amount billed by the applicant vendor and the farmer shall be liable to pay the full consideration to the vendor applicant if Bank does not make the payment.
3. Option 3: The farmer pays 10% of the consideration to the applicant vendor and the applicant vendor bills the entire value and the remaining amount is given on credit. The farmer then gives a no-objection certificate to the Department concerned that if the assistance is sanctioned to him, the 90% of the amount, i.e. the entire assistance amount may be paid to the applicant vendor on his account. The Department on sanction of the amount of assistance would make the payment to the applicant vendor on account of the farmer as per his directions. In case, the farmer is not sanctioned any assistance or in default, the entire balance amount is recoverable from the farmer by the applicant vendor. Here the vendor applicant invoices the full value of the commodities to the farmer and the privity of contract is only between the farmer and the vendor applicant.

b. Hence the learned representative stated in all the three options supra, the contract is for supply of goods and /or services between the farmer and the applicant vendor and the value of the supply is the entire invoice value. The financial assistance received by the farmer has no bearing on the price of the contract and the farmer is liable to pay the consideration irrespective of the receipt of financial assistance or not. The consideration received by the applicant may be from himself as in option 1 above or from the Bank on account of the farmer as in option 2 or from the Government Department as in option 3 and the way the consideration is received has no bearing on the price of the contract. Further he stated that Bank or the Government Department is only making the payment for the supply made by him to the farmer on the account of farmer only and not directly in their account with the vendor. He stated that there is no privity of contract between the Banker and the applicant or between the Government and the applicant and hence the financial assistance cannot be treated as subsidy affecting the value of supply within the meaning of section 15(2) of the Act.

## 6. DISCUSSION & FINDINGS:

6.1 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.

6.2 The application for advance ruling and the arguments made by the applicant and also the submissions made by the learned representative during the time of hearing were all considered and the issue that needs to be addressed is related to whether the amount paid by the Government Department to the farmer would constitute a part of the value of supply or not as per Section 15 of the Act.

6.3 Section 15 of the CGST Act, 2017 reads as under:

**“15. Value of taxable supply.-**

(1) *The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.*

(2) *The value of supply shall include –*

(a) . . . . .

(b) . . . . .

(c) . . . . .

(d) . . . . .

(e) *subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.*

*Explanation.- For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.”*

6.4 The nature of contract between the farmer and the applicant is verified and found that the applicant is entering into a contract with the farmer alone for the supply of goods and/or services and there is no involvement of the third party in the same. The consideration for the contract is the full value of the goods and / or services and it is the recipient of the supply, i.e. farmer who has to pay the entire consideration. The payment received by the applicant from the Bank in case of option 2 supra or received by the applicant from the Government Department in case of option 3 supra are received on account of the farmer only and there is no privity of contract between the applicant and Bank or Government Department. In case of option 1, the farmer himself makes the payment of consideration to the applicant and the contract ends here. The receipt of any amount received by the farmer from the Government Department has no bearing on the price or value of the supply of goods and/or services by the applicant. The Bank or Government Department makes payment to the applicant only on behalf of the farmer.

6.5 As per sub-section (1) of section 15, it is very clear that the value of supply is the transaction value and the transaction value is defined as the “price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient are not related and the price is the sole consideration for the supply”. In the pertinent case, it is clearly evident that the applicant and the farmer are not related persons and the price is payable by the farmer irrespective of the fact that he receives assistance from the government department or not or whether the Bank makes the payment or not. The consideration of the contract is not fixed taking into the account the amount receivable by the farmer as financial assistance and the entire amount is invoiced. Hence price is the sole consideration for supply and the entire invoice value would be the transaction price.

6.6 Coming to the issue of subsidy, it is very clear that the value of supply shall include the subsidies directly linked to the price, excluding subsidies provided by the Government. The financial assistance provided by the Government is to the farmer to enable him to afford the facility and Government is not making payment to the applicant vendor nor the amount receivable by the farmer has any



bearing on the price of the supply. If the subsidies provided by the Government is directly linked to the price, then the same would be excluded from the value of taxable supply. In the instant case, the amount receivable or received from the Government is received by the farmer and this amount may be received by him directly in option 1 or by the Bank in case of option 2 or by the applicant in option 3. The farmer has a choice of either opting option 1 or option 2 or option 3 and choice of any one of the option has no impact on the price of the supply of goods and /or services. Further, the liability of the farmer with the applicant for the supply received by him will get extinguished only when the applicant receives the consideration and it is immaterial from whom he actually receives the amount and the amount received in only credited against the liability of the farmer with him. Hence the method of receipt of payment has no bearing on the price of the supply and also the receipt of payment by the applicant from the Bank or the Government Department (on the authorization of the farmer concerned) is on the account of the farmer only. Hence the price is independent of the assistance amount and hence would not be covered under clause (e) of sub-section (2) of section 15 of the CGST Act.

7. In view of the foregoing, we pass the following

**RULING**

1. The amount of assistance received by the farmer or on account of the farmer from the Government Department has no bearing on the price and hence on the value of supply made by the applicant to the farmer and is not covered under section 15(2)(e) of the CGST Act, 2017.
2. There is no question of excluding the amount of assistance or subsidy received from the transaction value or value of taxable supply.
3. The question of entitlement of refund does not arise.

  
(Dr. Ravi Prasad M.P.)  
Member  
Karnataka Advance Ruling Authority  
Place : Bengaluru,  
Bengaluru - 560 009

  
(Mashhood Ur Rehman Farooqui)  
Member  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009

Date : 23.03.2020

To,

The Applicant

Copy to :

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.

The Asst. Commissioner, LGSTO-25, Bengaluru

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