

**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 61/2021**

**Dated: 29.10.2021**

Present:

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

1.	Name and address of the Applicant	M/s. GOLDEN HATCHERIES, Flat No.319-324/1,Golden Point, 1 <sup>st</sup> Floor, Queens Road Cross, Vasanthnagar, Bengaluru-560018.
2.	GSTIN or User ID	29ADCPK8497N1ZL
3.	Date of filing of Form GST ARA-01	13-09-2021
4.	Represented by	Sri Nagaraj S.N, General Manager
5	Jurisdictional Authority - Centre	The Principal Commissioner of Central Taxes, Bangalore North GST Commissionerate, North Division-3, RANGE-AND3
6	<b>Jurisdictional Authority - State</b>	ACCT, LGSTO-020, 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 vide CIN UBIN21092900041330 dtd 06-09-2021 and Rs.5,000-00 under SGST Act vide CIN CORP19122900339504

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

M/s. Golden Hatcheries, Flat No.319-324/1, Golden Point, 1st floor, Queens Road Cross, Vasanthanagar, Bengaluru-560018 having GSTIN 29ADCPK8497N1ZL, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and Section 97 of the KGST Act,

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2017 read with Rule 104 of the KGST Rules, 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 Proprietary concern 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 Act respectively). The applicant is a poultry Company, engaged in breeding of Parent (Mother Birds) which lay fertile eggs and these eggs are subjected to hatching process through hatching machine and the said offspring is called as Commercial broiler chick is born.

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

1. *What is the rate of tax on various items and equipments which are used in the construction of Poultry Farm on immovable property?*
2. *What is the HSN code on transferred of poultry farm equipment and others involved execution of works on immovable property?*

4. **Admissibility of the application:** The question is about “classification of any goods or services or both” and “determination of the liability to pay tax on any goods or services or both “and hence is admissible under Section 97(2)(a) and 97(2)(e) of the CGST Act 2017.

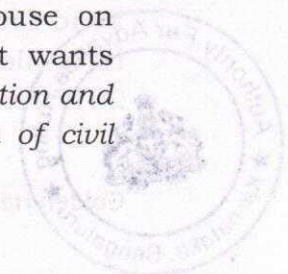
5. **Brief Facts of the case :** The applicant furnishes some facts relevant to the issue:

5.1 The applicant is engaged in Poultry farming and involved in breeding of Parent birds (Mother Birds) which lay fertile eggs and these eggs are subjected to hatching process through hatching machine and the said offspring is called as Commercial Broiler chick.

5.2 The New born Commercial Broiler chick has been subjected to rearing process up to 40 days to make it fit for human consumption and afterwards the same has to be sold for meat at chicken shops/ traders and Hotels or restaurants.

5.4. The applicant states that Live Poultry vide HSN 0105 is exempted from payment of taxes and also desirous to know the rate of tax and classification of various items, equipments and works contract services required for construction of the poultry farm on immovable property.

5.5 For the said activity the applicant wants to construct poultry farm house on immovable property with all necessary facilities. In this regard the applicant wants to buy the materials such as *Weigh Bridge, Power Infrastructure like substation and transformers, Material like cement, steel, jelly paint etc., for construction of civil*



buildings, Auro Water plant, Vehicle Washing System, Fencing & Gate , Pressure Washing Systems , Environmental puff panels for poultry sheds 200 KVA Gensets, Power Infrastructure like substation and transformers at the rate of 18% and also procure Equipments which requires at inside the shed such as feeders, drinkers, fans, cooling pads & fans, heaters, medicines at the rate of 12% and further requires civil works, electrical works, supply and installation works of Iron and steel structure at the rate of 18% on immovable property and Supply and installation of Roof Top Solar at the rate of 5%.

### **PERSONAL HEARING / PROCEEDINGS HELD ON 07-10-2021**

6 Sri Nagaraj S.N General Manager of the concern appeared for personal hearing proceedings held on 07-10-2021\_ and reiterated the facts narrated in their application.

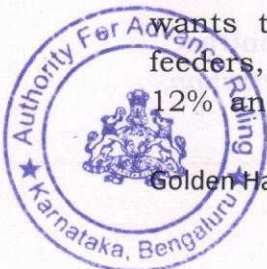
### **FINDINGS & DISCUSSION**

7. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, 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 representatives during the hearing. We also considered the issue involved on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law.

9. The applicant is engaged in the activity of poultry farming and is desirous to know about the rate of tax applicable on the transfer of poultry farm equipment installed on the immovable property(farm), and the applicable classification.

9.1 However, the applicant has not furnished any agreement or supporting document for execution of his poultry farmhouse works on immovable property and requirement mentioned on ARA-01 application. From the submissions made it appears that the applicant has to procure raw materials such as Weigh Bridge, Power Infrastructure like substation and transformers, materials like cement, steel, jelly, paint etc for construction of civil buildings, RO Water plant, Vehicle Washing System, Iron Fencing & Gate, Pressure Washing Systems, Environmental puff panels for poultry sheds 200 KVA Gensets, Power Infrastructure like substation and transformers (all at the rate of 18%) and also wants to procure equipment which are required inside the shed such as feeders, drinkers, fans, cooling pads and fans, heaters, medicines at the rate of 12% and to procure inward supply of goods and service such as civil works,



electrical works, supply and installation works of Iron and steel structure at the rate of 18% on immovable property and Supply and installation of Roof Top Solar at the rate of 5%. Thereafter the applicant transfers the entire poultry farm including the immovable property installed on the farm.

9.2 The activity carried out by the applicant of aforesaid mentioned along with service is in the form of composite supply of works contract service on immovable property as per section 2(119) of the CGST/KGST Act 2017.

9.3 The term **immovable property** has not been defined under the GST Law. The definition of immovable property under section 3 (26) of the General Clause Act, 1897 is reproduced as – “*immovable property*” shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.”

According to the section 2 (6) of the Registration Act, 1908 immovable property means –

*““Immovable Property” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass;”*

According to interpretation clause under section 3 of the Transfer of Property Act “*immovable property*” does not include standing timber, growing crops or grass;”

Under the interpretation clause it is also interpreted for “attached to the earth” “*attached to the earth*” means—

- (a) *rooted in the earth, as in the case of trees and shrubs;*
- (b) *imbedded in the earth, as in the case of walls or buildings; or*
- (c) *attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached;*

On perusal of the definitions given for immovable property it has been noticed that prime property under the term of “immovable property” is land or earth. Further permanently fastened or attached to land or benefits to arise out of land are also treated as immovable properties.

9.4 Thus, the applicant transferring all goods and service which are narrated in Para 9.1 falls under the purview of the definition of term “**composite supply**” as per section 2(30) of the CGST/KGST Act 2017 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;*

9.5 As per schedule II paragraph 6 and sub clause (a) defines “works contract” in clause 2 (119) of section 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 Therefore, such a composite supplies of goods and service on immovable property shall be treated as a supply of services as per Schedule II to the CGST Act.

9.4 Further, the applicant is constructing poultry farm on immovable property by using above stated input supplies is not eligible to claim Input Tax Credit. As per Section 17 (5) (d), Input Tax Credit shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. And also the claim of Input Tax Credit is restricted in terms of Section 17(2) of the CGST/KGST Act 2017 on goods and service which are used for construction of farm on immovable property.

9.5 Since the contract is an EPC contract, the activity carried out by the applicant is a composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017 i.e., transfer of Poultry farm including equipments, machineries and other items involved in the execution of the said works. Composite supply of works contract on immovable property for the construction of poultry farm is classified under HSN 9954 and rate of tax at the rate of tax @ 9% CGST and 9% KGST as per serial number 3 of item number (ii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017.

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

### **RULING**

1. *The rate of tax on the EPC contract of the construction of poultry farm on immovable property with all the equipments is as per serial number 3 of item number (ii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 at the rate of 9 % CGST and 9% KGST*

2. *The Transfer of poultry farm equipment and others involved execution of composite supply of works contract on immovable property for the construction of poultry farm house is classified under HSN 9954.*

  
(Dr.M.P.Ravi Prasad)  
Member  
MEMBER

Karnataka Advance Ruling Authority  
Bengaluru - 560 009

  
(T. Kiran Reddy)  
Member  
MEMBER  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009



Place: Bengaluru,

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, North GST Commissionerate, North Division 3, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-20, Bengaluru.
5. Office Folder.



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