

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

**Advance Ruling No. KAR ADRG 14 / 2021**

**Date : 24-03-2021**

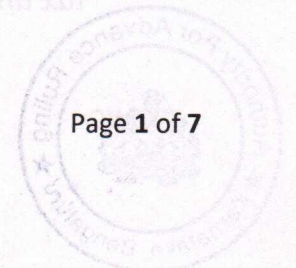
Present:

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

1.	Name and address of the applicant	M/s Karnataka State Warehousing Corporation, Ugrana Bhavan, # 43, Primrose Road, Bengaluru - 560025.
2.	GSTIN or User ID	29AAACK8505H1ZG
3.	Date of filing of Form GST ARA-01	01-06-2020
4.	Represented by	Sri. A R Vijay Singh, C A & Sri. Chandrashekar S Hegde, General Manager (Finance)
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, Bengaluru North Commissionerate, Bengaluru (RANGE-BND5)
6.	Jurisdictional Authority – State	LGSTO-20, 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 2017 & Rs. 5,000/- under KGST Act 2017 vide CIN SBIN20022900456985 dated.27.02.2020

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

M/s Karnataka State Warehousing Corporation (KSWC), (called as the 'Applicant' hereinafter) Beeja Bhavana, 4<sup>th</sup>& 5<sup>th</sup> Floor, Bellary Road, Hebbala, Bengaluru Urban-560024 having GSTIN number-29AAACK8505H1ZG, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and under Section 97 of the KGST Act, 2017 read with Rule 104 of 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 submitted that they are a State Government Undertaking, establishment during 1957 and set up under the erstwhile Agricultural Produce (Development and Warehousing) Corporations Act, 1956, later repealed by the Warehousing Corporation Act, 1962, having Central Warehousing Corporation and the Government of Karnataka as shareholders, in equal proportions. Further they also submitted that they are engaged in the following activities.

- a. To acquire and/or build godowns and/or warehouses within the State of Karnataka.
- b. To run Warehouses in the State of Karnataka for the storage of Agricultural Produce, seeds, manures, Fertilizers, Agriculture implements and other notified commodities.
- c. To arrange facilities for handling and transport, loading and unloading of agricultural produce, seeds, manures, fertilizers etc., to and from various railheads to corporation's godowns; and supervise all these activities being carried out by handling & Transport contractors (H&T Contractors).
- d. To arrange for disinfestation services on behalf of farmers, government offices, public libraries, etc.,
- e. To lease/rent out space on per square feet or any other basis to other corporations/agencies for storage of food grains, oil, fertilizers. Branded good, etc.,

3. The applicant provides the services, in relation to facilitation of handling & transport, loading & unloading of agricultural produce through Handling & Transport (H&T) contractors to the depositors (Government/quasi-government/public sector companies/private companies) who use the services of the applicant, for storing of agricultural produce, such as Food Corporation of India, and collects supervisory charges from its depositors an amount equivalent to the actuals charged by the said H&T contractors plus 8% on the said charges towards the said service.

4. In view of the above, the applicant sought advance ruling, on classification of their services mentioned supra, in respect of the following question:

*Whether 'supervisory charges' under clause 28(b) of the Office order on charges of KSWC charged to Food Corporation of India (FCI) by the Corporation towards supervision of loading, transportation and unloading of agricultural produce like Rice, wheat etc., at the rate of 8% on the amount billed by 'Handling and Transportation' Contractors is chargeable to tax under the CGST/KSGST Acts, 2017, If yes, at what is the applicable rate of tax and the HSN/SAC code applicable thereto?*



5. **Admissibility of the application** : The applicant filed the instant application, in relation to determination of liability to pay tax on their services. Further the applicant has sought advance ruling in respect of the questions on the issues covered under Section 97(2)(e) of the CGST Act 2017 respectively and hence the application is admitted.

6. The applicant furnished the following facts relevant to the instant application.

6.1 The applicant furnished copy of the extract of office order on charges to be claimed from 01.06.2014, in page 24 and 25, which reads as under-

*“27. The H&T work includes handling of stock at the railhead, transportation to the warehouses, unloading and proper stacking inside the godowns, re-bagging, salvaging, standardization as may be necessary and de-stacking and loading the same at the time of delivery. For all the different operations, indicated above, and or if any other added operation which may become necessary at times, different rates will be charged, on the basis of actual amount being paid to the H&T contractors.*

*28. The corporation will claim the following charges from the depositors.*

*a. Actual payment made to the H&T contractor's for different operations, the cost of gunnies, jute twine package etc., which may be purchased by the corporation if not supplied by the depositor.*

*b. Supervisory Charges on bills of H & T contractors and other incidental expenses incurred on behalf of the depositor at the rate 8% has to be paid by the depositor i.e. FCI*

*31. The H&T work is entrusted to the contractors who are appointed on the basis of tenders called and finalized as per Karnataka Transparency in Public Procurement Act. The work will be done by the Contractor, on the basis of agreement entered into with him by the Karnataka State Warehousing Corporation. Rates and other terms and conditions agreed to, with the contractor shall remain in force for the period and centers agreed to. Once the contractor is appointed the depositor shall have “NO SAY” regarding rates etc., and shall have to reimburse the charges for different operations along with supervisory charges. Adhoc rates may also be fixed by Karnataka State Warehousing Corporation for all unscheduled operations.”*

7. **Applicant's Interpretation of Law** : The applicant contends as under:

7.1 The Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 has notified that the Support services to agriculture, forestry, fishing, animal husbandry are exempt vide entry No24(i)(e), from the levy of tax under the provision of Central Goods and Service Tax Act, 2017 (herein after referred to as CGST/KGST Act, 2017).

KSWC



7.2 Storage and Warehousing Services primarily include “arrangement for space to keep the goods, loading, unloading and stacking of goods in the storage area, keeps inventory of goods, makes security arrangements and provide insurance cover etc.” The same has been explained by CBEC in F.No.B11/1/2002-TRU, dated 01-08-20002, wherein it has been clarified that “Storage and Warehousing Service for all kinds of goods are provided by public warehouses, private warehouses, by agencies such as the Central Ware Housing Corporation, Airport Authorities, Railways, Inland Container Depots, Container Freight Stations, storage godown and tankers operated by private individuals etc.. The storage and warehousing service provider normally make arrangement for space to keep the goods, loading, unloading and stacking of goods in the storage area, keeps inventory of goods, makes security arrangements and provide insurance cover.

7.3 The exemption under entry no 24 and under heading 9986 is available only to such of those service providers engaged in loading, unloading, packing, storage or warehousing of agricultural produce and not in respect of supervisory charges. Supervisory charges would also not be covered under the explanation provided by CBEC in F.No.B11/1/2002-TRU, dated 01-08-2020 i.e., Storage and Warehousing services primarily include “arrangement for space to keep the goods, loading, unloading and stacking of goods in the storage area, keeps inventory of goods, makes security arrangements and provide insurance cover etc. Hence, supervisory charges would fall under the heading 998619 “Other support services to agriculture, hunting, forestry and fishing” or under the SAC 996799 “Other supporting transport services n.e.c” or under the SAC 999799 “Other services n.e.c” and accordingly would be liable to tax at the rate of 9% CGST and 9% KGST or at 18% IGST respectively.

#### **PERSONAL HEARING: / PROCEEDINGS HELD ON 28.01.2021**

8. Sri. Vijay Singh A R, Chartered Accountant along with Sri. Chandrashekhar Hegde, General Manager (Finance) of the applicant company appeared for personal hearing proceedings held on 28.01.2021 & reiterated the facts narrated in their application.

#### **9. FINDINGS & DISCUSSION:**

9.1 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

9.2 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Vijay Singh A R, Chartered Accountant and Sri. Chandrashekhar S Hegde, General Manager (Finance) of the applicant company during the personal hearing. We have also



considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

9.3 The applicant submitted that they provide "Storage and Warehousing" services to the depositors such as FCI, for storing the agricultural produce. The applicant, at the request of FCI, undertakes the handling & transportation of the goods to be warehoused or to be removed, through the H&T contractors, and claims the actual charges plus 8% of the said charges (supervision charges) for having supervised the said H&T work. The instant application is with regard to taxability of the said "Supervisory Charges".

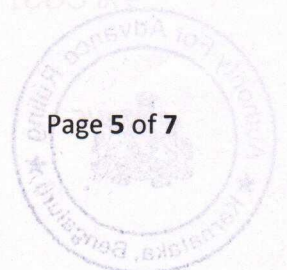
9.4 The applicant submitted that the H&T work includes handling of stock at the railhead, transportation to the warehouses, unloading and proper stacking inside the godowns, re-bagging, salvaging, standardization as may be necessary and de-stacking and loading the same at the time of delivery.

9.5 The applicant contends that supervisory charges would fall under the heading 998619 "Other support services to agriculture, hunting, forestry and fishing" or under the SAC 996799 "Other supporting transport services n.e.c" or under the SAC 999799 "Other services n.e.c" and accordingly would be liable to tax at the rate of 9% CGST & 9% KGST or at 18% IGST respectively.

9.6 It is observed from the records that the applicant is providing Handling & Transportation services of agricultural produce, for which they appoint H&T contractors, by online tender through E-procurement and enters into agreement with the said contractors. The applicant procures the services from the H&T contractors to provide the service to the FCI; raises invoice to the FCI for a value equivalent to the actuals paid to the contractors plus 8% mark up on such actuals. Thus there exists the value addition to the extent of 8% of the actual amounts. Therefore it is a supply of service in the hands of the applicant.

9.7 The applicant furnished a copy of letter dated 14.12.2020, issued by the FCI, wherein the FCI communicated that the applicant can't be a pure agent as there is no contractual agreement between them and also the applicant is principally providing the H&T services to the FCI. We invite the reference to Rule 33 of CGST Rules 2017, specifically to explanation to the said rule, in terms of which "Pure Agent" means a person who –

- a) *Enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;*
- b) *Neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;*



- c) Does not use for his own interest such goods or services so procured; and
- d) Receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

In the instant case, the applicant has furnished the copy of letter No E-4(20)/02/Stg.VII/Vol.III dated 09.08.2004, issued by the recipient FCI, on the basis of Ministry of Consumer Affairs, Food & Public Distribution's letter No.6-21/2003 SG dated 27.07.2004, wherein at para 1(c) it is communicated that the supervisory charges have been increased from 5% to 8% w.e.f. 01.04.2004, payable by FCI to CWC and the said rates have been extended to the SWCs (applicant is one of the SWC) subject to certain conditions, at para 4 of the said letter.

A contract is an agreement between two or more parties and can be either written or oral. An oral contract is an agreement made with spoken words and either no writing or only partially written and is just as valid as a written agreement. The existence of a contract requires the factual elements of (i) an offer, (ii) an acceptance of that offer which results in a meeting of the minds, (iii) a promise to perform, (iv) a valuable consideration, (v) a time or event when performance must be made (meet commitments), (vi) terms and conditions for performance including fulfilling promises and (vii) performance.

In the instant case the letter of FCI quoted supra contains all the ingredients required for a contract and hence the said letter is nothing but contractual agreement between the applicant and FCI for the applicant to be acting as pure agent of FCI, for the purpose of supervision of handling and transportation of agriculture produce. Further the applicant procures the services of H&T contractors for and on behalf of the FCI and charges actuals separately in the invoice along with their supervisory charges, separately. Thus the applicant squarely qualifies to be a pure agent of FCI in the instant case.

9.8 In view of the above the applicant indubitably is pure agent of the recipient FCI. The applicant is involved in provision of services to supervise handling and transportation of agriculture produce, belonging to the FCI, from railhead to warehousing station and hence procures the services from H&T contractors for the said purpose. Now we proceed to examine the classification of the supply of the said services of the applicant.

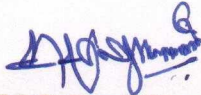
The Explanatory Notes to the Scheme of Classification of Services stipulates that SAC 999799 includes "Other services n.e.c". In the instant case, the services provided by the applicant i.e. supervision services are squarely covered under other services n.e.c. and the said supervisory services are exigible to GST at the rate of 9% CGST and 9% KGST or at 18% IGST respectively.



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

**RULING**

*The services of the applicant to supervise the handling & transportation of "agriculture produce" belonging to the FCI, from railhead to the warehousing station provided by the H&T contractors, are covered under SAC 9997 being the services nowhere else classified and are exigible to GST @ 18% in terms of Sl.No.35 of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, on the value equivalent to 8% of the sum of actual amounts paid to H&T contractors, in terms of Section 15 of the CGST Act, 2017.*



**(Dr. M.P.Ravi Prasad)**

**Member**

Karnataka Advance Ruling Authority

Place: Bengaluru, Bengaluru - 560 009

Date : 24-03-2021



**(Mashhood Ur Rehman Farooqui)**

**Member**

**MEMBER**

Karnataka Advance Ruling Authority

Bengaluru - 560 009

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 Commissioner of Central Tax, Bangalore North Commissionerate, Bengaluru
4. The Asst. Commissioner, LGSTO-20, Bengaluru.
5. Office Folder.

