Gitwako Farms (India) Private Limited, Opposite Alwar Public School, Village Kesarpur, Alwar, Rajasthan - 301001 (appellant; GSTIN 08AAACG1096K1ZH)

Appellate Authority for Advance Ruling — Rajasthan

ORDER NO. RAJ/AAAR/4/2019-20 Dated **02.08.2019**

Q Questions Before the Authority

- Whether supply of frozen chicken packed first in LDPE bags and then in HDPE bags, without a pre-determined quantity, merits classification as supply in a unit container under HSN 02071200.
- Whether such supply is exempt under Entry No. 9 of Notification No. 2/2017-CT (Rate) dated 28.06.2017, as amended.

F Facts

The appellant supplies frozen chicken under tenders to the Indian Army and paramilitary forces from its Alwar processing facility. Each dressed broiler carcass is individually packed in a colourless LDPE bag, which is then placed in an HDPE bag bearing the brand name 'Gitwako' and printed product details, marked for Defence Personnel Only. The product is delivered in temperature-controlled refrigerated vans fitted with data loggers.

H Ruling

Classification of frozen chicken packed in LDPE then HDPE bags, without a pre-determined quantity	**Supply in a unit container; HSN 02071200**	The appellant did not contest the HSN 02071200 classification (para 14). The unit container finding rests on one chicken per LDPE bag, which the order treats as a pre-determined number.
Exemption under Entry No. 9 of Notification 2/2017-CT(Rate) dated 28.06.2017, as amended	**Not exempt**	The appeal is rejected and the AAR ruling dated 22.04.2019 is upheld (para 26).

The Appellate Authority rejected the appeal and upheld the advance ruling of the Rajasthan AAR dated 22.04.2019. It held that branded frozen chicken packed in individual LDPE bags in a pre-determined number (one per bag), and supplied in HDPE bags, is supply in a unit container. Such supply is therefore not exempt under Entry No. 9 of Notification 2/2017-CT(Rate). The condonation of the 17-day delay in filing the appeal was also allowed.

R Reasoning

The authority reads the Explanation to Notification 1/2017-CT(Rate) as requiring only that a package be designed to hold a pre-determined quantity or number indicated on it, with no limit on size, shape or nature. It finds that one chicken per LDPE bag is a pre-determined number, and that the HDPE bags are designed to hold 10 to 20 kg as

specified in clause 8 of Defence Food Specification 209D (2016). It holds that weight variation in natural-shape chicken does not defeat pre-determination, because the number is the primary unit. It distinguishes the pre-GST CESTAT decisions relied on by the appellant and declines to compare the out-of-state advance rulings, whose facts were not before it.

P Provisions Relied On

- Section 100 of the CGST Act, 2017 and corresponding Section 100 of the RGST Act, 2017
- Section 100(2) proviso, CGST Act, 2017 (extension of appeal filing time)
- Notification No. 1/2017-CT(Rate) dated 28.06.2017, Explanation (definition of 'unit container')
- Notification No. 1/2017-CT(Rate), Schedule I, Entry 7 (heading 0207), as substituted by Notification No. 41/2017-CT(Rate) da…
- Notification No. 2/2017-CT(Rate) dated 28.06.2017, Entry 9, as substituted by Notification No. 42/2017-CT(Rate) dated 14.11…
- Notification No. 2/2017-CT(Rate), prior Entry 13 (for comparison)
- Defence Food Specification No. 209D (2016), clause 8 (Packing)

! For the Practitioner

The order helps tax authorities and practitioners reading the unit container test for packaged poultry: a single-item primary pack with a fixed count can qualify, even where the weight varies. Practitioners advising on Entry 9 exemptions for branded poultry should note that the order rests on the one-per-bag count rather than printed weight. The order does not decide whether bulk packs with a fixed weight range, or packs where the count varies, would also be unit containers. It also does not consider any further appeal or the rate applicable.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> raj_aaar_04_2019-20_02.08.2019_gfipl.pdf

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