M/s Jayalakshmi Tobacco Company (GSTIN: 37BIWPS7726L1Z2), D.No. 11-60-39, Waizulla Saheb Street, Vijayawada

Appellate Authority for Advance Ruling — Andhra Pradesh

Order /AAAR/AP/02(GST)/2019 dated 12th April 2019, in Application No.… Dated **12.04.2019**

Q Questions Before the Authority

- Will GST be applicable on the sale, by way of auction, of tobacco leaves received from farmers by a commission agent, where the agent's turnover is less than Rs. 20 lakh?
- If GST is payable in that situation, who has to pay the tax?
- Will the reverse charge provisions apply to tobacco leaves?
- Who has to pay GST when a commission agent sells tobacco leaves received from a trader in an auction, and can the commission agent collect GST from buyers and pay it?
- Where a commission agent receives tobacco from farmers and sells it within the State, earning commission for services and with annual turnover below Rs. 20 lakh, is the agent liable to collect GST?

F Facts

The applicant is a commission agent dealing in tobacco leaves. It procures leaves from farmers as well as from traders, and acts either as a commission agent or as a seller, depending on the transaction. The questions concern auction sales of leaves received from farmers and traders, the commission earned for those services, and whether the applicant must register and collect GST given its turnover level.

H Ruling

The Authority for Advance Ruling had split views and gave no ruling, so the matter was referred to this Appellate Authority under sub-section (2) of Section 98. After the applicant withdrew its application, saying it had applied for cancellation of its GST registration, the Appellate Authority dismissed the appeal. It did not answer the substantive questions. It noted that the cancellation was confirmed in Form REG-19 with effect from 31.01.2019, and that an advance ruling binds only the applicant and the jurisdictional authority.

R Reasoning

The order records the views of the two members on each question. The State member considered that no GST applies on receipt of leaves from farmers where the aggregate turnover is within the Rs. 20 lakh threshold, and that the commission on farmers' sales is exempt under entry 24 of Notification No. 11/2017-Central Tax (Rate). The Central member took the view that entry 24 gives Nil rate for commission agents dealing in agricultural produce. On reverse charge, the State member relied on S. No. 3 of Notification No. 04/2017-Central Tax (Rate), while the Central member said the reverse charge provision had not been notified. Because the members differed and the applicant withdrew, the Appellate Authority did not decide any of these points. Its dismissal rests on the

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

withdrawal and cancellation of registration.

P Provisions Relied On

- Section 98(2) of the CGST/APGST Act, 2017 (referral to the Appellate Authority)
- Section 7 of the CGST/APGST Act, 2017 (as cited in the State member view)
- Clause VII of Section 24 of the CGST/APGST Act, 2017 (as cited in the State member view)
- Schedule I, proviso 3 (as cited in the State member view)
- Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017, entry No. 24, heading 9986 (as cited in both member views)
- Notification No. 04/2017-Central Tax (Rate), dated 28.06.2017, S. No. 3 (as cited in the State member view)
- Form REG-19 (cancellation of registration)

! For the Practitioner

This order has little precedential value because it decides none of the five questions. It is useful mainly as a record of the State and Central members' differing views on the entry 24 exemption for commission agents and on reverse charge for tobacco leaves. A practitioner should not cite it as a ruling on those points. Anyone facing the same questions should check the full order for the member views and then look for a decided ruling on the exemption and reverse charge.

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 -> ap_aaar_02_2019_12.04.2019_jtc.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com