M/s Sardar Mal Cold Storage & Ice Factory (Appellant). Appeal No. RAJ/AAAR/APP/01/2018-19 against AAR Ruling No. RAJ/AAR/2018-19/03 dated 11.06.2018

Appellate Authority for Advance Ruling — Rajasthan

Order No. RAJ/AAAR/01/2018-19 dated 15.10.2018 (heading as printed; t… Dated **15.10.2018**

Q Questions Before the Authority

- Whether the goods in Groups A to G, as they come into cold storage, fall within the definition of 'agricultural produce' in the notifications.
- Whether the supply of cold storage services for those goods attracts nil rate of tax under Sr. No. 24 of Notification No. 11/2017-Central Tax (Rate) or exemption under Sr. No. 54 of Notification No. 12/2017-Central Tax (Rate), both dated 28.06.2017.

F Facts

The appellant owns a cold storage facility and stores produce bought by traders from farmers and cultivators. The appellant grouped the produce into seven groups (A to G) and described the processing, if any, that each group undergoes before storage, such as cleaning, polishing, drying, shelling or removal of outer shell. The appellant contended that none of this processing changes the essential character or marketability of the produce, so that storage is a nil-rated support service to agriculture. The AAR had held that Group A was agricultural produce but that Groups B to G were not, and the appellant appealed.

H Ruling

Group A: fennel, coriander, cumin, carom, fenugreek, mustard, brown mustard, nigella and poppy seeds (cleaning only)	**Agricultural produce. Storage is exempt, so the supply attracts nil rate (Sr. No. 24, Notification 11/2017; Sr. No. 54, Notification 12/2017).**	Holds only where the processing is the kind usually done by a cultivator or producer at farm level. Any processing beyond that takes the goods outside the definition.
Group B: turmeric, dried ginger (sonth), dates (khajoor), dry dates (chhuhara) (polishing and drying)	**Not agricultural produce. Storage is taxable.**	Polishing and drying are specialised processes not done by cultivators and add marketability and value.
Group C: tamarind (imli)	**Not agricultural produce. Storage is taxable.**	Shelling and removal of the pod and seeds are usually done by specially designed machines and change the essential character.
Group D: dry mango (amchur), kathodi, dry gooseberry (amla), dry water caltrop (singhara), dry peas (sukha matar)	**Not agricultural produce. Storage is taxable.**	The traders' washing, cutting, shelling, cleaning, drying and packing add considerable value beyond the primary market.

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Group E: cinnamon (dalchini), gum (gond), arjuna bark (arjuna chaal)	**Not agricultural produce. Storage is taxable.**	Cinnamon and gum need specific industrial processing that cannot be done at farm level.
Group F: groundnuts (mungphali), coconut (copra gola) with outer shell removed	**Not agricultural produce. Storage is taxable.**	Removal of the outer shell is done by machines or specialised plants, not at farm level, and makes the produce saleable in the secondary market.
Group G: dry fruits such as fig, almond, walnut, pistachio, and lotus seed (makhana)	**Not agricultural produce. Storage is taxable.**	Cleaning, dehusking, specialised drying, sorting, grading and packing are not farm-level operations and add substantial value.

The Appellate Authority dismissed the appeal and found no reason to interfere with the AAR ruling. In the discussion, Group A (fennel, coriander, cumin, carom, fenugreek, mustard, brown mustard, nigella and poppy seeds) was held to be agricultural produce, because cleaning can be done at farm level and does not change its character, so storage is exempt. Groups B to G were held not to be agricultural produce, so storage of them is taxable.

R Reasoning

The authority read the definition of 'agricultural produce' in explanation 4(vii) of Notification 11/2017 and explanation 2(d) of Notification 12/2017 together with the Sr. No. 24 and Sr. No. 54 entries, and tested each group against it. It applied the test in Circular No. 16/16/2017-GST dated 15.11.2017, asking whether the produce has reached primary marketability, whether processing alters its essential characteristic, and whether the processing is usually done at farm level. It held that cleaning of Group A is a farm-level operation that leaves the produce essentially unchanged, but that the processing of Groups B to G goes beyond that. It also held that the Education Guide on Service Tax relied on by the appellant has no legal backing and that the circular now governs.

P Provisions Relied On

- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 24 (support services to agriculture, including loading, u…
- Explanation 4(vii) to Notification No. 11/2017-Central Tax (Rate), definition of 'agricultural produce'
- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 54 and explanation 2(d), definition of 'agricultural prod…
- Circular No. 16/16/2017-GST dated 15.11.2017 on the application of GST to agricultural produce
- Section 97(2) of the CGST/SGST Act, 2017 (the question raised under advance ruling)
- Section 66D of the Finance Act, 1994 (negative list), cited by the appellant and not relied on by the authority
- Educational Guide on Taxation of Services, cited by the appellant and held to lack legal backing

! For the Practitioner

This order helps a practitioner who stores farm-stage produce. It shows that the nil rate for storage of agricultural produce is available only where the goods have had nothing beyond farm-level processing, such as basic cleaning of seeds. It also shows that the authority treats Circular 16/16/2017-GST as the controlling test and gives the Education Guide no weight. The ruling does not decide the rate for any processed or value-added product beyond the listed groups, and its operative RULING section only affirms the AAR without answering each group, so the group-wise answers must be taken from the discussion at paragraph 20.

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 -> aaar-raj-1-2018 dtd. 15.10.18 sardar.pdf

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