

M/s JAYALAKSHMI TOBACCO COMPANY

Authority for Advance Ruling — Andhra Pradesh

Order No. 03 /AAR/AP/GST/2018

Dated 08.06.2018

Q Questions Before the Authority

- Will GST be applicable on sale of tobacco leaves received from farmers made by Commission Agent in an auction and his turnover is less than Rs.20 Lakh?
- In case, there is GST in the above situation, who has to pay the tax?
- Will reverse charge provisions applicable for tobacco leaves or not?
- Who has to pay GST when commission agent sell the tobacco leaves received from trader in an auction? Can commission agent collect GST from buyers and pay or not?
- The Commission Agent receives tobacco from farmers and sell them within the state. He takes commission from farmers for his services and it is less than Rs. 20 Lakh in a year. Will the Commission Agent is liable to collect GST in this situation?

F Facts

The applicant is a commission agent dealing with tobacco leaves, procuring them from farmers as well as traders to sell in auctions. The applicant receives commission for its services and sought an advance ruling on GST applicability, reverse charge applicability, tax payment liability, and registration requirements.

H Ruling

The two-member Authority expressed **different views** on the questions raised and found no consensus to pronounce a ruling. Consequently, as per Section 98(5) of the CGST/APGST Act, 2017, the application was treated as **ruling not issued** and referred to the Appellate Authority for Advance Ruling for further action.

R Reasoning

The State Tax Member held that sales on behalf of traders require mandatory registration under Section 24 and attract GST, while commission received from farmers is exempt if turnover thresholds are met. Conversely, the Central Tax Member viewed services by commission agents for sale or purchase of agricultural produce (tobacco leaves) as fully exempt with NIL rate under Sl. No. 24 of Notification No. 11/2017-Central Tax (Rate). Due to this irreconcilable difference of opinion between the members, no consensus could be reached under Section 98(5) of the CGST/APGST Act, 2017, requiring referral to the Appellate Authority.

P Provisions Relied On

Section 98(5) of CGST / APGST Act, 2017

Section 2(5) of CGST Act, 2017

Section 2(6) of CGST Act, 2017	Section 7(1) of CGST Act, 2017
Section 15 of CGST Act, 2017	Section 23 of CGST Act, 2017
Section 24 of CGST Act, 2017	Schedule I of CGST Act, 2017
Notification No. 04/2017-Central Tax (Rate) dated 28.06.2017	
Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017	

! For the Practitioner

This order highlights the procedural outcome when AAR members disagree, resulting in **no ruling being issued** and an automatic referral to the Appellate Authority for Advance Ruling under Section 98(5). Practitioners cannot rely on individual member findings attached to a split decision as binding precedent. The substantive taxability of tobacco commission agents remained unresolved at this forum level.

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_03-2018_08.06.18_jayalakshmi_tobacco_co.pdf

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