M/s. Deccan Tobacco Company, D.No.5-7-6, 1st Lane, 5th Cross Road, Brodipet, Guntur-522 002 (GSTIN 37AAHFD1174H1ZI)

Authority for Advance Ruling — Andhra Pradesh

AAR No. 36/AP/GST/2019 Dated **24.10.2019**

Q Questions Before the Authority

- (a) What is the rate of GST applicable on tobacco leaves procured at tobacco auction platforms or directly from farmers, which are cured and dried by farmers themselves?
- (b) What will be the applicable rate of tax if the applicant purchases tobacco leaves from other dealers who have purchased them from farmers, for the purpose of trading?
- (c) What will be the applicable rate of tax if the applicant segregates the tobacco into grades depending upon size (width), colour/shade, length, texture of the leaf etc., and sells such graded tobacco leaf?
- (d) What will be the applicable rate of tax if the tobacco leaves are butted and sold to other dealers?
- (e) What is the applicable rate of tax if the applicant gets the tobacco leaves re-dried without getting them threshed and sells them?
- (f) What will be the applicable rate of tax if the applicant gets the tobacco leaves threshed and re-dried?
- (g) What will be the applicable rate of tax if the applicant gets the tobacco threshed and re-dried on job work basis at others' premises and then sells such threshed and re-dried tobacco leaves to others?

F Facts

The applicant buys cured tobacco leaves at auction platforms (FCV variety) or directly from farmers (non-FCV variety), and also buys leaves from other dealers, and sells them within India and overseas. It also carries out grading, butting, stripping, re-drying and threshing on its own account and on job work for other traders or manufacturers. The applicant is registered with the Tobacco Board as a packer and exporter.

H Ruling

(a) Leaves procured at auction platforms or directly from farmers, cured and dried by farmers	**5% (reverse charge)**	Supplier is an agriculturist and recipient is any registered person, under the reverse charge entry (Notification 4/2017-CT (Rate), entry 3). The order states the rate as 5% under Notification 4/2017 Central Tax (Rate).
(b) Leaves bought from other dealers who bought from farmers, for trading	**5% (2.5% CGST + 2.5% SGST)**	Schedule I, Sl. No. 109 of Notification 1/2017-CT (Rate) dated 28.06.2017.
(c) Leaves graded by size, colour, length, texture and sold	**5% (2.5% CGST + 2.5% SGST)**	Schedule I, Sl. No. 109.

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

(d) Leaves butted and sold to other dealers	**5% (2.5% CGST + 2.5% SGST)**	Schedule I, Sl. No. 109.
(e) Leaves re-dried without threshing and sold	**5% (2.5% CGST + 2.5% SGST)**	Schedule I, Sl. No. 109.
(f) Leaves threshed and re-dried by the applicant	**28% (14% CGST + 14% SGST)**	Schedule IV, Sl. No. 13 of Notification 1/2017-CT (Rate).
(g) Leaves threshed and re-dried on job work at others' premises and then sold	**28% (14% CGST + 14% SGST)**	Schedule IV, Sl. No. 13.

The authority held that tobacco leaves attract 5% GST (2.5% CGST and 2.5% SGST) under Schedule I, entry 109, for trading, grading, butting and re-drying without threshing. Tobacco leaves procured from farmers at auction platforms or directly are taxable at 5% under the reverse charge entry in Notification 4/2017-CT (Rate). Threshed and re-dried tobacco leaves, whether on own account or on job work, attract 28% GST (14% CGST and 14% SGST) under Schedule IV, entry 13.

R Reasoning

The authority read the commodity 'tobacco leaves' in Schedule I, entry 109, together with the reverse charge entry in Notification 4/2017-CT (Rate), and treated it as distinct from other tobacco entries. It relied on CBIC clarification that 'tobacco leaves' means leaves as such, or broken leaves or tobacco leaves stems, so leaves that do not lose their basic character as leaves remain tobacco leaves. Grading, butting and re-drying without threshing were held not to alter that character. The order does not clearly explain why threshing moves the goods into Schedule IV, though it treats the threshed and re-dried stage differently. The order also records a CTRI view that threshing and re-drying are an extension of agricultural activity, but does not adopt it as the basis of its ruling.

P Provisions Relied On

- Section 97(2) and Section 98 of the CGST Act, 2017 and APGST Act, 2017
- Section 100 of the APGST Act, 2017 (appeal to Appellate Authority)
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Schedule I Sl. No. 109 (tobacco leaves at 5%)
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Schedule IV Sl. No. 13 (unmanufactured tobacco at 28%)
- Notification No. 4/2017-Central Tax (Rate) dated 28.06.2017, reverse charge entry 3 (tobacco leaves from agriculturist)
- CBIC Tax Research Unit clarification (circular cited as No. 332/2/2017-TRU, Q.42) defining 'tobacco leaves'
- HSN 2401 and its explanatory notes, cited by the applicant

! For the Practitioner

This ruling is useful for tobacco traders because it sets out a stage-by-stage rate map for leaves, from auction purchase through grading, butting and re-drying to threshing. It confirms 5% for trading and minimal processing and 28% for threshed and re-dried leaves. It binds only the applicant and does not resolve the rate on threshed leaves that are not re-dried, nor the conflicting Shalesh Kumar Singh ruling cited by the applicant. Read the reasoning on the threshing break point before relying on it.

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 -> aar_no.36-2019_deccan_tobacco_company.pdf

Prepared 13-11-2026.

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