M/s Haryana State Warehousing Corporation

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2018-19/38 (In Application No. 38/2018… Dated **22.02.2019**

Q Questions Before the Authority

- Whether lien or mortgage charges and stock transfer fees received by the applicant from the service receiver are taxable under Section 9 of the CGST Act, 2017 and Section 9 of the HGST Act, 2017, or exempt under Section 11 of the CGST Act, 2017, with respect to both agricultural and non-agricultural produce stored and warehoused in the applicant's warehouses.

F Facts

The applicant is a statutory corporation under the Warehousing Corporation Act, 1962, providing storage and warehousing of agricultural and non-agricultural produce. Owners keep goods in its warehouses as security for loans, and the applicant charges a fee for creating a charge, mortgage or lien in favour of financial institutions. It also charges a stock transfer fee when ownership of stored goods changes hands.

H Ruling

Lien or mortgage charge and stock transfer fee on agricultural produce stored in applicant's warehouses	**Taxable; not exempt under Section 11 CGST Act**	The Nil rate under Entry 54 of Notification 12/2017-Central Tax (Rate) covers loading, unloading, packing, storage or warehousing of agricultural produce only and does not cover mortgage or stock transfer fees. The order states no rate for these fees.
Lien or mortgage charge and stock transfer fee on non-agricultural produce stored in applicant's warehouses	**Taxable under the CGST/HGST Act, 2017**	The order states no rate of tax for these fees.

The Authority held that the lien, mortgage and stock transfer fees are taxable services. The Nil-rate entry for loading, unloading, packing, storage or warehousing of agricultural produce does not extend to these fees, so they are not exempt for agricultural goods. For non-agricultural goods the fees are liable to tax under the CGST/HGST Act, 2017.

R Reasoning

The Authority read Entry 54 (Heading 9986, clause (e)) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, which gives a Nil rate for loading, unloading, packing, storage or warehousing of agricultural produce, as the only relevant concession. It held that the notification nowhere exempts mortgage, lien or stock transfer fees on agricultural goods. Relying on CBEC Circular No. B/II/1/2002-TRU dated 01.08.2002, it held that the scope of storage and warehousing does not include mortgaging or stock transfer services. The applicant's argument that these services form part of storage and warehousing was therefore rejected.

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

P Provisions Relied On

- Section 9, CGST Act, 2017 (levy of tax)
- Section 9, HGST Act, 2017 (levy of tax, as framed in the question)
- Section 11, CGST Act, 2017 (power to grant exemption)
- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Entry No. 54, Heading 9986, clause (e)
- Notification No. 47/ST-2 dated 30.06.2017 (Haryana, referred to by the applicant as the State counterpart)
- CBEC Circular No. B/II/1/2002-TRU dated 01.08.2002 (scope of storage and warehousing services)
- Section 97(2), CGST/HGST Act, 2017 (ground for the application)

! For the Practitioner

This ruling helps practitioners advising warehousing operators and lenders that lien, mortgage and stock transfer fees are taxable even where the underlying goods are agricultural produce. Its reliance on the Nil-rate entry shows that the concession for agricultural storage is confined to the storage service itself. The order does not state the applicable rate for these fees, and it does not decide whether the fees could be treated as exempt in some other form. It is a 2019 ruling under the pre-amendment regime and should be checked against later notifications before it is cited.

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 -> har_aar_38_2018-19_22.02.2019_hswc.pdf

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