M/s Kalagarla Suryanarayana Son, E Block 39, PW Market, Vizianagaram-535001, Andhra Pradesh (GSTIN 37ACMPK4820E1ZO)

Authority for Advance Ruling — Andhra Pradesh

AAR No.30/AP/GST/2019 Dated **10.12.2019**

Q Questions Before the Authority

- Whether Tamarind Seed attracts Nil rate of tax under HSN Code 1209 (Forest Trees Seed) or not.

F Facts

The applicant is a wholesale dealer in tamarind, tamarind seed, oil seeds, pulses and cereals. It sought a ruling on whether tamarind seed should be taxed at nil under HSN 1209 as seed of forest trees, relying on the Indian Forest Act, 1927 and the AP Preservation of Private Forest Rules, 1978, which list tamarind (chinta) as a protected tree. At the personal hearing the proprietor admitted that the tamarind seed and kernel are sold to millers for commercial or industrial use, and no certificate showed sowing use.

H Ruling

Whether tamarind seed attracts nil rate under HSN 1209 (forest trees seed)	**No. Classified under HSN 1207 (Schedule I, Sl. No. 70) at 5% (2.5% CGST + 2.5% SGST)**	Entry is for other oil seeds and oleaginous fruits other than of seed quality. The authority noted the goods are sold to millers for commercial or industrial use and no sowing-use certificate was produced.

The authority held that tamarind seed is classified under HSN 1207 at Sl. No. 70 of Schedule I to Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, and attracts GST at 5% (2.5% CGST and 2.5% SGST). The authority did not accept that the goods fall within the nil-rated HSN 1209 entry. The ruling is the 5% classification, not a nil rate.

R Reasoning

The authority relied on the absence of any certificate or document showing the tamarind seed or kernel was meant for sowing, and on the applicant's admission that the goods are sold to millers for commercial or industrial use. It noted the CBIC FAQ dated 03.08.2017 treats tamarind kernel under HSN 1207 and read Notification No. 1/2017-CT(Rate) to place it at Sl. No. 70 of Schedule I. The order does not expressly engage with the applicant's arguments on the Indian Forest Act, the AP forest rules, Chapter 12 Note 3 or the Wood Crafts decision, so the decision rests mainly on the end-use and classification findings. The applicant's authorities are recorded as submissions rather than analysed as holdings.

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

P Provisions Relied On

- Section 97(2)(b) and (e) of the CGST Act, 2017 and APGST Act, 2017 (clauses on applicability of a notification and determin…
- Section 98(1) and Section 98(4) of the CGST/APGST Act, 2017 (consultation with jurisdictional officer and the ruling)
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Schedule I, Sl. No. 70, heading 1207
- CBIC FAQs on HSN code and GST rates dated 03.08.2017 (as cited in the order)
- Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 86, heading 1209 (cited by applicant; not adopted by the…
- HSN Chapter 12, Note 3 (cited by applicant; not adopted by the authority)
- Section 2(4) of the Indian Forest Act, 1927 (cited by applicant)
- Rule 2 of the AP Preservation of Private Forest Rules, 1978 (cited by applicant)
- Wood Crafts Products Ltd., 1995 (77) ELT 23 (SC) (cited by applicant)

! For the Practitioner

A practitioner dealing in tamarind seed should note that this ruling places tamarind seed sold for commercial or milling use at 5% under HSN 1207, not nil under HSN 1209. A seller claiming the nil rate for forest-tree seed would need evidence that the goods are of seed quality and meant for sowing. The order does not decide whether genuine sowing-grade tamarind seed falls under HSN 1209, and its reasoning on the forest-tree argument is thin.

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.30-2019_kalagala_suryanaryana_son.pdf

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