M/s Mcdonald Pelz Global Commodities India Pvt. Ltd., C-501, M3M Urban, Golf Course Extension Road, Sector-67, Gurgaon, Haryana (GSTIN 06AAJCM2608Q2Z1)

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2019-20/05 (In Application No. 05/2019… Dated **16.08.2019**

Q Questions Before the Authority

- Whether the services of the supplier (the applicant, a brokerage or intermediary service provider in relation to sale and purchase of agricultural produce) are exempt under exemption Notification No. 12/2017-CT (Rate) dated 28.06.2017, specifically Entry 54 (heading 9986, clause (g): services provided by a commission agent for sale or purchase of agricultural produce).

F Facts

The applicant is a private limited company that provides brokerage or intermediary services for sale and purchase of agricultural produce, mainly wheat, maize and pulses. It sources both buyer and seller, charges brokerage or commission from both parties, and never deals in the goods itself. Tax invoices are issued by the supplier directly in the name of the recipient, and the recipients are located both intra-State and inter-State.

H Ruling

Whether the applicant's brokerage or intermediary services are exempt under Entry 54 (heading 9986, clause (g)) of Notification 12/2017-CT (Rate) dated 28.06.2017	**Not exempt**	The applicant is an intermediary (broker) and not a commission agent, so the clause (g) exemption for services of a commission agent in sale or purchase of agricultural produce does not apply. The order does not separately state the rate of tax applicable.

The services of the applicant are **not exempt** under Notification No. 12/2017-CT (Rate) dated 28.06.2017. The applicant is an intermediary under Section 2(13) of the IGST Act and is **not a commission agent** , so clause (g) of Entry 54 does not cover its services.

R Reasoning

The authority compared the definition of agent in Section 2(5) of the CGST Act with the definition of intermediary in Section 2(13) of the IGST Act, and noted that the CGST Act picks up the IGST meaning through Section 2(120). Relying on Scenario 1 of CBIC Circular No. 57/31/2018-GST dated 04.09.2018, it held that a person who only identifies suppliers and facilitates procurement, without involvement in the supply or receipt of goods, is not an agent. Because the invoices are issued by the supplier in the recipient's name and the applicant acts for neither party, it is an intermediary and **not a commission agent** . The clause (g) exemption under Entry 54 of Notification 12/2017-CT (Rate) therefore does not extend to its services.

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

P Provisions Relied On

- Section 97(2)(b) of the CGST/HGST Act, 2017 (as stated in the application form)
- Section 2(5) of the CGST Act, 2017 (definition of agent)
- Section 2(120) of the CGST Act, 2017 (meaning of words defined in the IGST Act)
- Section 2(13) of the IGST Act, 2017 (definition of intermediary)
- Section 2(24) of the IGST Act, 2017
- Section 2(83) of the CGST Act, 2017 (outward supply)
- Section 2(88) of the CGST Act, 2017 (principal)
- Section 2(102) of the CGST Act, 2017 (services)
- Notification No. 12/2017-CT (Rate) dated 28.06.2017, Entry 54, heading 9986, clause (g)
- Notification No. 11/2017 and Notification No. 12/2017 dated 28.06.2017 (cited by the applicant)
- CBIC Circular No. 57/31/2018-GST dated 04.09.2018, Scenario 1

! For the Practitioner

This ruling tells a practitioner that a commodity broker or intermediary cannot claim the Entry 54 clause (g) exemption for agricultural produce brokerage merely because the commodity is agricultural. The exemption is limited to services of a commission agent, and the authority reads that term against the agency test in Section 2(5) and Circular 57/31/2018-GST. The order does not decide whether a broker who acts as agent for one party, or who is involved in the supply itself, would fall within clause (g). It also does not settle the rate of tax applicable to the brokerage service.

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_05_2019-20_16.08.2019_mpgcipl.pdf

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