S.607 Namakkal Agricultural Producers Co-operative Marketing Society Ltd., Namakkal

Authority for Advance Ruling — Tamil Nadu

ORDER No.12/AAR/2020 Dated: 27.02.2020 Dated **27.02.2020**

Q Questions Before the Authority

- Whether there is any purchase/sale involved in the process of auction of agricultural produce (cotton) conducted by the Namakkal Agricultural Producers Co-operative Marketing Society?
- Whether our Society is liable to pay tax under Reverse Charge Mechanism in the capacity of being an auctioneer?
- Whether service tax payable on receipt of Commission, Godown rent, Interest, in respect of service provided to agricultural produce?
- Whether or not the merchants (Registered person) who directly purchase cotton from the agriculturist through auction conducted by the society is liable to pay tax on the basis of Reverse Charge Mechanism?

F Facts

The applicant is a co-operative society registered on 20.05.1939 under the Tamil Nadu Co-operative Societies Act, and it acts as an agent or auctioneer for the auction of cotton produced by its member agriculturists. It states that title to the goods stays with the agriculturists until delivery to merchants, that it earns commission and collects godown rent, insurance, handling charges and late-payment interest, and that it neither buys nor sells the cotton. The merchants who buy at auction are registered persons. The applicant also relied on the exemption notifications and earlier case law in support of its position.

H Ruling

The application was not admitted and was rejected under the first proviso to Section 98(2) of the CGST/TNGST Act 2017. The authority found that the same issues were already pending before the Central tax authorities, which had initiated proceedings and recorded statements under Section 70 of the CGST Act. The authority did not examine the merits of any of the four questions.

R Reasoning

The application was filed on 01.10.2019, when the Central tax authorities had already started an investigation into the applicant covering the same issues. The Central authority's letters dated 12.12.2019 and 27.02.2020 confirmed this, and statements had been recorded under Section 70 on 20.09.2019. The first proviso to Section 98(2) bars admission where the question is already pending or decided in any proceedings under the Act. The applicant had not disclosed the pending proceedings in the application, but it accepted the position at the personal hearing. The authority therefore rejected the application without reaching the merits.

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

P Provisions Relied On

Section 98(2) of the CGST Act 2017 and the corresponding TNGST Act provision, including the first proviso

Section 70 of the CGST Act 2017 (recording of statements, as noted in the investigation details)

Sub-rule (1) of Rule 104 of the CGST Rules 2017 and TNGST Rules 2017 (application fee, as noted)

! For the Practitioner

This order is useful for showing that a pending departmental investigation or proceeding on the same question will bar admission of an advance ruling application under the first proviso to Section 98(2). Applicants should disclose any pending proceedings in the application itself, because the bar applies regardless of disclosure. The order does not decide whether cotton auction commission is taxable, whether the society is liable under reverse charge as an auctioneer, or whether merchants bear reverse charge, so those questions remain open. Any appeal against the rejection lies before the State Appellate Authority within 30 days of communication.

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 -> tn_aar_12_2020_27.02.2020_napcmsl.pdf

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