Sakshi Jhajharia

Authority for Advance Ruling — West Bengal

41 of WBAAR/2020-2021 (the order's own printed number; the date of th… Dated **10.02.2020**

Q Questions Before the Authority

- Whether the Applicant's service of crushing whole, unpolished food grains supplied by the State Government, followed by packing and return of the crushed grain for distribution through the Public Distribution System, is exempt under Sl No. 3 or 3A of Notification No. 12/2017-CT(Rate) dated 28.06.2017 (corresponding State Notification No. 1136-FT dated 28.06.2017), as amended.

F Facts

The Applicant, an unregistered person, proposes to crush food grains that the State Government owns and sends to it, then pack the crushed grain with packing material the Applicant supplies, and return it to the Government for PDS distribution. The Applicant has not yet signed a binding contract with the Government and argued that the activity is a pure service in relation to a Panchayat function under Article 243G and Entry 28 of the Eleventh Schedule.

H Ruling

Exemption of crushing food grains for the State Government, followed by packing and delivery, for PDS distribution	**Exempt under Sl No. 3A of Notification No. 12/2017-CT(Rate) dated 28.06.2017 (State Notification No. 1136-FT dated 28.06.2017), as amended**	Conditional on the agreement binding both supplier and recipient so that the grain cannot be diverted from PDS use, and on packing material not exceeding 25% of the composite supply value. The order does not rule on Sl No. 3.

The Authority held that the crushing and packing supply is a composite supply in which crushing is the principal supply and packing material is ancillary. The exemption under Sl No. 3A is available only if the agreement with the State Government binds both parties so that the grain cannot be diverted from PDS use, and only if packing material does not exceed 25% of the value of the composite supply.

R Reasoning

The Authority read Sl No. 25(a) of the Service Tax exemption notification and CBIC Circular No. 51/25/2018-GST dated 31.07.2018 as showing that the earlier exemption continues under Sl No. 3 and 3A, now extended to any function of a Panchayat or Municipality under the Constitution. It examined three elements: whether the supply is a pure or composite service with goods at or below 25% of value, whether the recipient is a government or governmental authority, and whether the activity relates to a function entrusted to a Panchayat under Article 243G. It treated food grain distribution through PDS as falling within Entry 28 of the Eleventh Schedule, but tied eligibility to a contractual restriction on diversion of the grain. The packing material's value share could not be

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measured on the facts given, so the Authority attached a 25% ceiling as a condition.

P Provisions Relied On

- Section 97(2)(b) of the GST Act (admissibility)
- Section 98(1) of the GST Act (dispensed with, as the Applicant is unregistered)
- Section 100 of the GST Act (appeal, read in the preamble)
- Section 103 and Section 104(1) of the GST Act (binding nature and voidness of the ruling)
- Notification No. 12/2017-CT(Rate) dated 28.06.2017, Sl No. 3 and Sl No. 3A (Exemption Notification); corresponding State N…
- Notification No. 25/2012-ST dated 20.06.2012, Sl No. 25(a) (ST Notification, referred to for comparison)
- CBIC Circular No. 51/25/2018-GST dated 31.07.2018
- Article 243G and Entry 28 of the Eleventh Schedule of the Constitution

! For the Practitioner

A contractor doing crushing or processing of government-owned food grains for PDS can use this ruling to argue for Sl No. 3A exemption, but only if its contract restricts the grain to PDS use and the packing material stays within 25% of value. The ruling is an advance ruling on the applicant's submitted facts and binds only the applicant, the Applicant's contract is not yet signed, and the order does not decide Sl No. 3, the valuation of packing material in practice, or the treatment of any other processing activity.

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 -> wb_aar_48_2020_10.02.2020_sj.pdf

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