Sanjay Kumar Jain, Old Dhan Mandi, Kuchaman City, Nagour 341508 (GSTIN 08ACGPJ4177K1Z9)

Authority for Advance Ruling — Rajasthan

Advance Ruling No. RAJ/AAR/2019-20/13, dated 02.07.2019 (F.No. AAR/… Dated **02.07.2019**

Q Questions Before the Authority

- Whether the applicant is liable to pay tax on the basis of the reverse charge mechanism on the freight paid by the applicant on transportation of cotton seed oil cake having HSN code 2306.

F Facts

The applicant trades in cotton seed oil cake, known as 'khal', under HSN 2306, which the applicant believes is exempt under GST. The applicant pays freight on transporting these goods and is presently paying GST on those freight charges under reverse charge. The invoices produced at the hearing showed no GST charged on the supply of goods received by the applicant.

H Ruling

Liability to pay GST under reverse charge on freight paid for transporting cotton seed oil cake (HSN 2306)	**Yes. Liable to pay GST under reverse charge mechanism**	Applicant is the recipient of GTA services under Notification No. 13/2017 (entry 1). Cotton seed oil cake is not covered by the nil-rate entry for goods transport in Notification No. 12/2017 (entry 21).

The Authority ruled that the applicant is **liable to pay GST under the reverse charge mechanism** as the recipient of goods transport agency (GTA) services. The applicant's contention that cattle feed and similar items might be exempt was rejected as hypothetical, since liability depends on the factual position under the law in force.

R Reasoning

The Authority examined entry 1 of Notification No. 13/2017 dated 28.06.2017, which makes a registered person receiving GTA services liable under reverse charge, and found the applicant to be such a recipient. It then examined entry 21 of Notification No. 12/2017 dated 28.06.2017, which gives a nil rate for GTA transport of listed goods such as agricultural produce, milk, salt, food grain, organic manure and relief materials. Cotton seed oil cake is not among the listed goods, so the nil rate is unavailable. The applicant's argument by analogy to food grains and milk was treated as hypothetical.

P Provisions Relied On

Section 97(2)(e) of the CGST/SGST Act, 2017 (advance ruling on determination of tax liability)

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

Notification No. 13/2017 dated 28.06.2017, entry 1 (reverse charge on services of goods transport agency)

Notification No. 12/2017 dated 28.06.2017, entry 21 (nil rate for GTA transport of specified goods; Headings 9965 and 9967)….

Section 51 (tax deduction at source), referred to in the RCM notification's description of governmental agencies

Section 99 and Section 100 (appeal to the Appellate Authority within 30 days)

! For the Practitioner

This ruling helps a buyer of goods who pays freight to a GTA in Rajasthan: a registered recipient must pay GST on that freight under reverse charge unless the transported goods fall within the nil-rate list in Notification 12/2017. It settles that cotton seed oil cake is not on that list. It does not decide whether the sale of cotton seed oil cake itself is exempt, and it does not state the GTA rate, which appears only in the jurisdictional officer's comments (5%). The ruling binds only the applicant, and the decision may be appealed under Section 100.

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 -> raj_aar_13_2019-20_s_k_jain.pdf

Prepared 05-11-2026.

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