TP Roy Chowdhury & Company Pvt Ltd

Authority for Advance Ruling — West Bengal

17/WBAAR/2019-20 dated 19/08/2019 (Case No. 23 of 2019, ARN AD1905… Dated **19.08.2019**

Q Questions Before the Authority

- Whether imported raw whole yellow peas are 'agricultural produce' within the meaning of the Exemption Notification.
- Whether the applicant's stevedoring service of loading and unloading imported raw whole yellow peas is exempt under Sl No. 54(e) of Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 (corresponding State Notification No. 1136-FT dated 28/06/2017).

F Facts

The applicant is a stevedore that handles bulk imported raw whole yellow peas for an importer, under a handling contract. The cargo contained about 1.45% broken grain and 10.86% split kernel, as shown by a test report from SGS India Pvt Ltd on samples drawn while the cargo was being loaded into barges. The applicant argued that these split and broken portions were incidental to handling and did not change the peas' character as whole raw produce, so its loading and unloading service should be exempt.

H Ruling

Whether imported raw whole yellow peas are agricultural produce	**Not decided separately; the order rests the outcome on the primary market test**	The Authority held the imported cargo is outside the primary market and beyond the farmer's hand, so the question of agricultural produce status was not the basis of the ruling.
Whether loading and unloading of imported yellow peas is exempt under Sl No. 54(e)	**Not exempt; exemption under Sl No. 54(e) is not applicable to the applicant's service**	Applies only after the cargo reaches the port of entry; the ruling is subject to Section 103 until declared void under Section 104(1).

The Authority ruled that the applicant's service of loading and unloading yellow peas after the cargo reaches the port of entry is **not** exempt under Sl No. 54(e). It held that the produce, having been procured from farmers abroad and imported into India, is no longer within the primary market or at the farmer's hand, whether or not it has been processed in a mill. The order does not separately decide whether the peas are agricultural produce.

R Reasoning

The Authority read Sl No. 54(e) as covering loading, unloading and similar services only where they relate to the cultivation of plants and fall under SAC 9986, and it defined agricultural produce by reference to the primary market. It relied on the explanation that the term primary market means a place like a mandi where farmers sell directly to buyers, and that support services end once the farmer disposes of the produce. It also relied on CBIC Circular No. 16/16/2017-GST dated 15/11/2017, which treats de-husked or split pulses as outside agricultural

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

produce. Since the yellow peas were imported and handled at the port after leaving the foreign farmer, the Authority held the services fell outside the exemption.

P Provisions Relied On

Sl No. 54(e) of Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017

Corresponding State Notification No. 1136-FT dated 28/06/2017

Clause 2(d) of the Exemption Notification (definition of agricultural produce, as cited by the applicant and quoted in the order)

SAC 9986

Section 97(2)(b) of the GST Act (admissibility)

Section 100 of the GST Act (appeal provision referred to in the preamble)

Section 103 and Section 104(1) of the GST Act (binding effect of ruling)

CBIC Circular No. 16/16/2017-GST dated 15/11/2017

! For the Practitioner

A practitioner handling imported bulk agricultural commodities can cite this ruling to show that the Authority applies the primary market test strictly, so stevedoring and port handling of imported produce are unlikely to qualify under Sl No. 54(e). It does not decide whether imported pulses are agricultural produce as such, and it does not address domestic handling at a mandi or farm-level services. Because the order is a West Bengal ruling binding only on the applicant, it should be checked against the full text and any later appellate or central rulings before reliance.

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_17_2019_tprccpl_19082019.pdf

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