M/s. Naga Limited

Authority for Advance Ruling — Tamil Nadu

ORDER No. 18 /AAR/2018 Dated **29.10.2018**

Q Questions Before the Authority

- Whether the exemption under Sl.No. 54(e) of Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017, for service providers who render handling services (loading, unloading, packing, storage or warehousing) of agricultural products, applies to wheat when imported through a sea port.

F Facts

The applicant, a manufacturer of maida, sooji, atta and soap, imports wheat through sea ports for milling at its Dindigul factory. It engages port-side service providers for loading, unloading, packing, storage and warehousing. Some providers charge GST on these services, contending that the exemption covers only the supply chain from cultivator to primary market and not imported goods reaching secondary or tertiary markets.

H Ruling

The application was **not admitted** under sub-section (2) of section 98 of the CGST Act and the TNGST Act. The authority held that the applicant is **the recipient of the services and not the supplier** , so the question concerns the service providers' tax liability and not any supply made by the applicant. The merits of the wheat exemption were not examined.

R Reasoning

The authority read the section 95(a) definition of advance ruling as limited to supplies of goods or services undertaken or proposed to be undertaken by the applicant. It noted that under section 103(1) a ruling binds only the applicant and the concerned or jurisdictional officer. Because the applicant only receives the port services and makes no supply in question, the authority found the question did not fall within the admissible scope. It therefore rejected the application without going into the merits of the exemption under Sl.No. 54(e).

P Provisions Relied On

Section 95(a) of the CGST Act and TNGST Act (definition of advance ruling)

Section 97(2) of the CGST Act and TNGST Act (matters on which advance ruling may be sought), referred to in the definition

Section 98(2) of the CGST Act and TNGST Act (non-admission of application)

Section 100(1) of the CGST Act and TNGST Act (appeal provision), referred to in the definition and the note on appeal

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

Section 103(1) of the CGST Act (binding effect of ruling)

Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017, Sl.No. 54(e) (subject of the question, not decided)

! For the Practitioner

This order is useful mainly as a warning that the Tamil Nadu Authority will refuse to admit an advance ruling application filed by a recipient of services who makes no supply in question. It settles no point on whether wheat imported through sea ports qualifies for the Sl.No. 54(e) exemption. A practitioner facing port-service GST disputes should look to the service providers, who are the suppliers, as the proper applicants, and should read the full order for the procedural reasoning.

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-18-aar-2018-nagaltd.pdf

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