M/s Sringeri Yogis Pai, Flat No.501, 5th Floor, Vinayaka Apartments, Microwave Station Road, Hathill, Mangaluru - 5750006 (the body of the order refers to Sri. Sringeri Yogis Pai)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 89/2019, Date: 26-09-2019 Dated **26.09.2019**

Q Questions Before the Authority

- Whether tobacco leaves attract tax at the rate of 5% on forward charge, or whether such tobacco leaves can be classified as unmanufactured tobacco or tobacco refuse (other than tobacco leaves) which attract a rate of tax of 28%.
- Whether the applicant's transactions in the commodity are covered under Notification No. 4/2017 - Central Tax (Rate) dated 28.06.2017, so as to attract reverse charge.

F Facts

The applicant is an unregistered dealer who buys tobacco leaves from wholesalers in Andhra Pradesh and sells them in the retail market in Mangaluru. The Andhra Pradesh sellers invoice the goods as tobacco leaves at 5% GST on forward charge, and local retailers do the same. The CGST and SGST officers gave the applicant conflicting views, with the CGST officer accepting 5% forward charge and the SGST officer saying 5% applies only to the first sale from grower to first purchaser, so the rest is taxable at 28%. The applicant is apprehensive about trading because of this confusion and the liability that could arise.

H Ruling

Rate of GST on the commodity (tobacco leaves, sun-cured) sold by the applicant, i.e. whether 5% forward charge or 28% applies	****14%** under CGST Act and 14% under KGST Act; heading 2401 10 20; entry 13 of Schedule IV, Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017**	The Authority held the goods are cured (sun-cured country tobacco) and not plain raw tobacco leaves, so entry 109 of Schedule I (5%) was not applicable. Neither the 5% nor the 28% rate asked about in the application was adopted; the 14% rate was determined under entry 13 of Schedule IV.
Whether the applicant's transactions are covered by Notification No. 4/2017 - Central Tax (Rate) dated 28.06.2017 (reverse charge)	**No. Not covered; not liable under reverse charge mechanism**	Reason given: the goods are not covered under entry 109 of Schedule I of Notification No. 1/2017, and the applicant is not buying from agriculturists, so Notification No. 4/2017 does not apply.

The Authority held that the commodity is sun-cured country tobacco under tariff heading 2401 10 20, not raw tobacco leaves, and is covered by entry 13 of Schedule IV of Notification No. 1/2017 - Central Tax (Rate), attracting **14% under the CGST Act and 14% under the KGST Act** . It further held that the applicant's

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

transactions are not covered by Notification No. 4/2017 - Central Tax (Rate), so reverse charge does not apply to them.

R Reasoning

The Authority accepted that the goods are sun-cured tobacco classified under heading 2401 10 20, because the goods have undergone curing and so are no longer plain tobacco leaves. It then considered whether entry 109 of Schedule I or entry 13 of Schedule IV of Notification No. 1/2017 - Central Tax (Rate) applied, and concluded that entry 13 of Schedule IV governs, giving a 14% rate. For the reverse charge question, it held that Notification No. 4/2017 - Central Tax (Rate) applies only to purchases from agriculturists covered by entry 109 of Schedule I, and neither condition is met. The order was passed under Section 97 read with sub-section (4) of Section 98 of the CGST Act and the corresponding KGST Act provisions. The applicant's reliance on the Shalesh Kumar Singh ruling of the New Delhi Authority is recorded, but the order does not expressly adopt it.

P Provisions Relied On

- Section 97 of the CGST Act, 2017 and KGST Act, 2017 (application for advance ruling)
- Sub-section (4) of Section 98 of the CGST Act, 2017 and KGST Act, 2017 (order of advance ruling)
- Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017, Schedule I, entry 109
- Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017, Schedule IV, entry 13
- Notification No. 4/2017 - Central Tax (Rate) dated 28.06.2017 (reverse charge)
- Chapter 24 of the Central Excise Tariff Act, heading 2401 10 20 (sun-cured country tobacco)

! For the Practitioner

A practitioner dealing in sun-cured country tobacco leaves at the trade level can use this ruling to support a 14% rate under entry 13 of Schedule IV, rather than the 5% forward charge rate or the 28% rate that the officers had suggested. The ruling also confirms that a dealer buying from wholesalers, rather than from agriculturists, is outside the reverse charge notification. The order is specific to the applicant's product and facts, and it does not decide the position for other tobacco products such as raw leaf or unmanufactured tobacco, nor the rate for dealers in a different chain of supply.

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 -> kar_aar_89_2019_26.09.2019_syp.pdf

Prepared 11-11-2026.

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