M/s Tata Coffee Limited (GSTIN 29AABCC0241R1ZH)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 99/2019, Dated: 27th September, 2019 Dated **27.09.2019**

Q Questions Before the Authority

- Whether depositing timber/wood with the Government Timber Depot for disposal under Section 104 of the Karnataka Forest Act is a 'supply' under GST, and therefore taxable, when the goods remain in the custody of the auctioneer.
- If GST applies to depositing timber with the auctioneer, on what value is GST chargeable in the applicant's invoice.
- Whether GST paid on the full amount by the auctioneer (Government Timber Depot) discharges the applicant's liability, so that the applicant need not charge GST on deposit or on receiving the net consideration.
- If the transaction is a supply by the applicant, what is the time of supply of the timber.
- If the transaction is a supply but consideration is not fixed or known at the time of supply, when is the time of supply and on what value must tax be paid, given that the depot decides the auction timing.
- Whether GST is payable by the applicant under reverse charge on the supervision charges collected by the Government Timber Depot, under Sl. No. 5 of Notification No. 13/2017-Central Tax (Rate).

F Facts

Tata Coffee Limited grows coffee, tea and pepper and cuts down excess shade trees, along with dead or wind-fallen trees and rosewood, as part of its shade management. The applicant transports this timber to Government Timber Depots at Thithimathi and Kushalanagara in Kodagu, as required under Section 104A of the Karnataka Forest Act and Rule 127A of the Karnataka Forest Rules. The depot auctions the timber in its own name, collects the sale price, and before remitting the net proceeds deducts supervision charges at 10% of sale value along with GST, without issuing a valid tax invoice for that GST.

H Ruling

Whether deposit of timber with Government Timber Depot for disposal is a supply	****Yes, it is a supply**; GST is chargeable on the value of such supply**	Reasoning treats the depot as the applicant's agent under Section 2(5) CGST Act, read with Schedule I, para 3(a), so the handover to the agent is a supply by the principal
Value on which GST is chargeable on the deposit	****Open market value**, or value determined under Rule 30 or Rule 31 in that order**	Rule 29 applies; the option of 90% of the recipient's resale price applies where goods are intended for further supply by the recipient
Whether depot's payment of GST discharges the applicant's liability	****No**; the applicant's liability is not discharged**	No provision for shifting tax liability; two independent supplies (applicant to depot, and depot to buyer), each taxable

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

Time of supply of the timber handed to the depot	**Time of removal of timber/wood by the applicant for supply to the depot**	Based on the conjoint reading of Section 12(2) and Section 31(1) CGST Act
Time of supply and value where consideration is not known at supply (question as to the depot's auction timing)	**Not answered separately; the ruling states that the depot's later sale does not affect the value or time of supply of the first supply**	Treated as a repetition of earlier questions
GST on supervision charges collected by the depot, under reverse charge (Sl. No. 5, Notification 13/2017-CT(Rate))	****Reverse charge applies, with the applicant paying tax, only if the depots are Government Departments**; otherwise the depot collects GST and invoices the applicant**	The order does not itself decide whether the depots are Government Departments; the answer is conditional on that fact

The authority held that depositing timber with the Government Timber Depot for disposal is a supply under the GST Act on which GST is chargeable, and that the value is the open market value or the value determined under Rule 30 or Rule 31. It held that there is no provision for shifting tax liability, so the depot's payment does not discharge the applicant's liability, since the applicant's handover and the depot's later sale are two independent supplies. The time of supply was held to be the time of removal of timber by the applicant for supply to the depot. Supervision services are liable to tax under reverse charge only if the Government Timber Depots are Government Departments; otherwise the depot must collect GST and invoice the applicant.

R Reasoning

The authority treated the depot as the applicant's agent in disposing of the timber, so the handover to the depot is a supply by the principal to the agent under Section 2(5) and Schedule I, para 3(a) of the CGST Act. For valuation it relied on Section 15(4) and Rule 29, which points to open market value, and then Rules 30 and 31. On timing it read Section 12(2) with Section 31(1), which fixes the time of supply as removal of the goods for the depot. It found that Section 104 of the Karnataka Forest Act mandates the deposit but does not displace GST liability on it. On supervision charges it applied entry 5 of Notification 13/2017-CT(Rate), which excludes services by Central or State Government to a business entity from reverse charge only in certain cases.

P Provisions Relied On

- Section 104 of the Karnataka Forest Act, 1963
- Section 104A of the Karnataka Forest Act, 1963
- Rule 127A of the Karnataka Forest Rules
- Section 97 and Section 98(4) of the CGST Act, 2017 and KGST Act, 2017
- Section 2(5) of the CGST Act, 2017 (agent)

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Schedule I, para 3(a) of the CGST Act, 2017 (supply by principal to agent)

Section 12(2) of the CGST Act, 2017 (time of supply of goods)

Section 15(4) of the CGST Act, 2017 (value where Section 15(1) fails)

Section 31(1) of the CGST Act, 2017 (tax invoice)

Rule 29 of the CGST Rules, 2017 (value through an agent)

Rules 30 and 31 of the CGST Rules, 2017 (residual valuation)

Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017, entry Sl. No. 5 (reverse charge)

! For the Practitioner

This ruling is useful for forest-produce or coffee-estate businesses that consign timber to a government depot for auction, because it confirms that the consignment is a taxable supply by the owner and that the depot's later payment does not discharge the owner's tax. It also sets out how to value and time that first supply. It does not decide whether any particular forest depot is a Government Department, which controls the reverse-charge treatment of supervision charges. It also gives no separate answer on the timing question about the depot's auction date beyond stating that the second supply does not affect the first.

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_99_2019_27.09.2019_tcl.pdf

Prepared 11-11-2026.

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