

TAX INFO

Dated 03/01/2022

Latest update on GST Law: Information regarding - **Rice is not agricultural produce and therefore, commission agent services for sale or purchase of rice is not exempt by way of exemption notification** as given in **ruling by AAR-Karnataka**.

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| Name of Applicant | Hindustan Agencies |
| Authority | GST AAR Karnataka |
| Date of Ruling | 06/12/2021 |
| Ruling No. | KAR ADRG 73/2021 |

Brief Facts of the Case:

The applicant is rice canvassing commission agent for Rice millers and traders. They are selling agricultural produce (rice) as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. They are not raising any sale invoices other than commission bill for their services rendered. Paddy and Rice are the Food Crops as per the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966. Paddy is a produce out of cultivation of paddy plants and it is meant for food. The de-husking or hulling of paddy into rice, make the paddy marketable and it is from the point of view of the fact that paddy as such is not a marketable commodity and it is rice obtained out of paddy that is the marketable commodity. Therefore, the processing of de-husking or hulling of paddy into rice does not alter the essential characteristic of paddy. The essential characteristic of paddy is that it is an agricultural produce meant for 'food' and this characteristic is not altered but retained even after the paddy is processed by de husking / hulling into rice.

Questions on which advance ruling has been sought?

1. Whether the applicant is entitled to collect GST on Supply of services which pertains to selling of agricultural produce as per APMC Act?
2. Is there any special case where the applicant has to collect GST on the Service provided (Branded and unbranded)?

Contention of the Applicant:

The applicant submits that its commission agency service for supply of rice to rice millers and traders would fall within clause (g) of SI No. 54 – Heading 9986 read with the definition in paragraph 2 (d) of Notification No. 12/2017 Central Tax (Rate) dated 28-6-2017 as Services by any Agricultural Produce Marketing Committee or Board or Services provided by a commission agent for sale or purchase of agricultural produce” and there is no GST on the service provided by them i.e., “canvassing of rice ” is exempt from GST.

Findings and Ruling:

The applicant is engaged in providing the services of 'Commission Agent' for rice millers and traders, wherein applicant is of the opinion that the services are covered under clause (g) of SI No. 54 of the Notification No. 12/2017 Central Tax (Rate) dated 28-6-2017, and exempted from levy of GST.

“(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.”

Whether ‘rice’ can be treated as agricultural produce in terms of the subject Notification, and the commission agent services provided by the applicant to rice millers and traders for sale or purchase of rice falls within the ambit of the above clause. In this regard, the applicant contends that both paddy and rice are food crops and are agricultural produce as per APMC Act of the State. However it is seen that term ‘agricultural produce’ is specifically defined for the purpose of the Notification No. 12/2017 Central Tax (Rate) dated 28-6-2017, hence there is no scope to rely on the definition of the same under any other Act.

For any product to be called as agricultural produce, it must satisfy the following criteria:

- **Any produce out of cultivation of plants and rearing of all life forms of animals.**
- **No further processing is done and if any processing is done, it is usually done by the producer or the cultivator.**
- **The said processing does not alter the essential character of such produce/product.**
- **Such initial processing to render the product marketable.**

In the instant case the product viz., rice is a product of milling process involving de-husking, steaming, de-browning, polishing, sorting etc. of paddy, which is a produce out of cultivation of plants. Thus, both rice and paddy are produce out of cultivation of plants. But rice and paddy are not the same as rice is the outcome of milling process of paddy. While rice is readily consumable, paddy when subjected to milling processes yield rice, husk and rice barn. Milling process is not normally done by the paddy producer or cultivator, but is undertaken by the millers. Milling process also changes the essential characteristics of the produce from paddy to rice, which are both distinctly identifiable and separately marketable commodities. Thus, the criteria (ii), (iii) and (iv) above are not satisfied in the instant case, in as much as the processing is not done by the cultivator or the producer and the essential character of the produce has also undergone change. Therefore, rice cannot be treated as agricultural produce in terms of para 2(d) of the said Notification, and the commission agent services for sale or purchase of rice does not fall in the ambit of Sl.No. 54 of the Notification 12/2017-CT(Rate) and therefore not eligible for any exemption from levy of GST.

Hence, the activities of Commission Agent by canvassing for Rice attract Central Tax-CGST @ 9% and KGST @ 9% towards marketing of ‘Rice’ including ‘branded Rice’ also.

1. The applicant is liable to collect CGST @ 9% and KGST @ 9% on supply of services relating to sale or purchase of rice.

2. The applicant by canvassing for Branded and unbranded rice of millers and other traders is liable to pay CGST @ 9% and KGST @ 9% on the consideration received or receivable as commission from the rice miller or traders.

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