

TAX INFO

Dated: 21.10.2020

Latest update on GST Law: Information regarding **Mere renting of space cannot be said to be service for storage or warehousing of goods** based on the **Ruling** given by **Karnataka Appellate Authority for Advance Ruling**.

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Mere renting of space cannot be said to be service for storage or warehousing of goods

Name of Applicant	In re M/s Karnataka Food & Civil Supplies Corporation
Name of Court	AAAR Karnataka
Appeal Number	Order No. KAR/AAAR-14-I/2019-20
Date of Judgement	28.02.2020

Facts of the Case:

The Appellant is a Government of Karnataka undertaking established with a mission to supply food grains and other essential commodities and services to the consumer under the Public Distribution System Scheme and other Government schemes to meet its consumer needs. The Appellant has entered into an agreement with Central Warehousing Corporation (CWC) for use of storage space at Central Warehouse, Belgaum for storage of Public Distribution System commodities belonging to the Appellant. As per the agreement, CWC has provided storage space of 488 sq metres at Belgaum for a consideration of Rs 126 per sq. metre per month or part thereof on gross area basis. CWC was charging GST on the storage charges but the Appellant have not paid the GST portion to CWC. Therefore, CWC has stopped godown operations on account of non-payment of GST.

Questions on which Advance Ruling is sought:

Whether GST is payable on the Storage charges? Is GST liable to be paid on the entire amount paid as consideration for storage charges or is GST liable to be paid only on the storage of taxable food commodities like palm oil, etc?

Contention of Applicant:

They contended that since the nature of their activity as was prevalent during the Service Tax regime has not changed even after GST was implemented, the services of storage of food commodities for public distribution system are exempt from the levy of GST under Sl.No 54 and alternatively Sl.No 24 of Notification No 12/2017 CT (R) dated 28-06-2017.

Observations:

In the present case, the applicant, M/s Karnataka Food and Civil Supplies Corporation Ltd is the recipient of the services and not supplier of services. The application for advance ruling made by a recipient of supplies should not have been admitted by the lower Authority. However, since a ruling has been given and the matter has come before us in appeal, we shall proceed to examine the matter on merits.

The supply made by CWC is merely a renting of space. We observe that there is difference between 'storage or warehousing' service and 'renting of storage premises' service. The 'storage and warehousing service' provider normally makes arrangement for space to keep the goods, loading, unloading and stacking of goods in the storage area, keeps inventory of goods, makes security arrangements and provides insurance cover etc. In a case where a person only rents the storage premises, he does not provide any service such as loading / unloading, stacking, security etc. Mere renting of space cannot be said to be in the nature of service provided for storage or warehousing of goods

Judgement:

The service supplied by CWC to the Appellant is renting of immovable property. The amount of rent paid by the Appellant to CWC is taxable at the hands of CWC under the category 'Rental or leasing services involving own or leased non-residential property' (Service Accounting Code – 997212).

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