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|  सत्यमेव जयते | RAJASTHAN APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN) Email : aaarjpr@gmail.com |  राजस्थान कर बाजार |
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Proceedings under Section 101 of the Central GST Act, 2017 read with Rajasthan GST Act, 2017

Before the Bench of

- (1) Sh. Rakesh Kumar Sharma, Member (Central Tax)
(2) Dr. Preetam B. Yashvant, Member (State Tax)

ORDER NO. RAJ/AAAR/4/2019-20, DATED 02.08.2019

| | | |
|-----------------------------------|---|---|
| Name and address of the Appellant | : | Gitwako Farms (India) Private Limited, Opposite Alwar Public School, Village Kesarpur, Alwar, Rajasthan - 301001 |
| GSTIN of the applicant | : | 08AAACG1096K1ZH |
| Issues under Appeal | : | (i) Whether supply of goods i.e. frozen chicken packed first in LDPE bags and then in HDPE bags, without having pre-determined quantity, merits Classification as supply in a Unit container under HSN code 02071200 (ii) Whether such supply is exempted under Entry No.9 of the Notification No. 2/2017-CT (Rate) , dated 28.06.2017 as amended |
| Date of Personal Hearing | : | 23.07.2019 |
| Present for the applicant | : | Sh. Gaurav Gupta C.A. and Sh. Neeraj Garg C.A. (Authorised Representative). |
| Details of Appeal | : | Appeal No.RAJ/AAAR/APP/01/2019-20 against Advance Ruling No. RAJ/AAR/ 2019-20/4 dated 22.04.2019 |

(Proceedings under section 101 of the Central GST Act, 2017 read with section 101 of the Rajasthan GST Act, 2017)

At the outset, we would like to make it clear that the provisions of both the Central GST Act, 2017 and the Rajasthan GST Act, 2017 are same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central GST Act, 2017, would also mean a reference to the same provisions under Rajasthan GST Act, 2017.

2. The present appeal has been filed under Section 100 of the Central GST Act, 2017 (hereinafter also referred to as 'CGST Act') read with Section 100 of the Rajasthan GST Act, 2017 (hereinafter also referred to as 'RGST Act') by Gitwako Farms (India) Private Limited, Alwar, Rajasthan (hereinafter also referred to as 'the Appellant') against the Advance Ruling No. RAJ/AAR/2019-20/4, dated 22.04.2019.

CONDONATION OF DELAY

3. The first issue relates to the delayed filing of appeal under Section 100(2) of the CGST Act. The said Advance Ruling dated 22.04.2019 was received by the appellant on 26.04.2019. Thus, the prescribed time limit of 30 days from the receipt of the Advance Ruling ended on 26.05.2019. However, the appeal has been submitted by the appellant electronically on GST portal on 12.06.2019 with a delay of 17 days. The appeal has been submitted physically also before this forum on 17.06.2019. As per the proviso to the Section 100(2) of CGST Act, 2017, the Appellate Authority has the discretion to extend the appeal filing time by further 30 days if satisfied with the reasons for the delayed filing of appeal.

3.1 The appellant has attributed the delay in filing of appeal, to the time taken by the Accounts Department of Army in clarifying the issue of levy of GST on chilled/frozen meat products supplied to the Indian Army, with reference to the Notification No. 2/2017-CT (Rate), dated 28.06.2017.

3.2 The appellant has requested to condone the delay as the circumstances were beyond its control and to accept the appeal.

3.3 Considering the circumstances stated by the appellant, we condone the delay in filing the appeal and admit it for final disposal, on merits.

BRIEF FACTS OF THE CASE

4.1. Gitwako Farms (India) Private Limited (hereinafter referred to as 'Appellant') is a private limited company incorporated under the provisions of Companies Act, 1956 and is holder of GST registration number 08AAACG1096K1ZH for the State of Rajasthan.

4.2. The appellant is engaged in supplying frozen chicken to the Indian Armed and Paramilitary forces against the tender issued by the Indian Army. It is also having multiple production facilities across India. The instant appeal is in respect of the appellant company's processing facilities at Alwar, Rajasthan.

4.3 The work order awarded by the Indian Army to the appellant is for supply of a specified amount of weight of chicken dressed chilled/frozen over a specified period of time. As process of its supply, the bird is slaughtered and its carcass is processed, sealed and delivered in its natural shape. The processed carcasses are of different weights and sizes and vary from one animal to another. Each dressed chicken (broiler) carcass subsequent to chilling and before freezing is individually packed in a primary package colourless LDPE bag and then it is put in a secondary package (HDPE Bag). On HDPE bags, contents (including product name, Firm's name and brand, net weight (if required), batch number/lot number and instructions for consumptions and preservation of such chicken) are printed. The package is specifically mentioned for Defence



Personnel Only. Frozen chicken is then delivered in temperature controlled refrigerated vans with data logger installed for continuous monitoring of Frozen chicken.

4.4 The appellant filed an application before the Rajasthan Authority of Advance Ruling, seeking clarification about the classification and HSN code of the frozen chicken when sold in packaged form and whether the same is exempt from GST under Entry No.9 of the Notification No. 2/2017-CT(Rate), dated 28.06.2017.

4.5 The Rajasthan Advance Ruling Authority, vide its Ruling dated 22.04.2019 has held that the Branded Frozen Chicken supplied in a unit container is classifiable under HSN code 02071200 and such frozen chicken supplied by the appellant is not exempted under Entry No. 9 of Notification No. 2/2017-CT(Rate), dated 28.06.2017 (as amended from time to time).

5. Aggrieved by the aforesaid Ruling, the Appellant has preferred the present appeal before this forum.

GROUND OFS OF APPEAL

6. The Appellant in its aforementioned Appeal, has, inter alia, mentioned the following grounds of Appeal:-

A. The Advance Ruling Authority has erred in classifying the HDPE bags as unit container

(i) As part of its supply, the meat is put in primary and secondary packaging and thus, the question which is to be examined is whether such packaging would qualify as 'unit containers' or not.

(ii) Unit containers consist of two words – unit and container. While Unit has been defined to mean as a determined quantity, a standard amount of a physical quantity, such as length, mass, energy, etc, specified multiples of which are used to express magnitudes of that physical quantity. The word container has been defined to mean an object for holding or transporting something. Thus, any object for holding a standard quantity can be called a unit container.

(iii) Explanation to the Notification No.1/2017-CT(Rate), dated 28.06.2017 provides that the phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package. The same is in line with the earlier definition of the phrase and is explained in the following paragraphs.

(iv) Note to Section IV (covering Chapters 16 to 20 of the schedule to the CETA, 1985), which defines a unit container to mean a container whether large or small (for example tin, can, box, jar, bottle, bag or carton, drum, barrel or canister) designed to hold a pre-determined quantity or number. Let's say 1 Kg in each container. In the instant case, the same is not pre-



determined and each package may contain a different weight. The definition as provided in Notification No. 1/2017-CT(R), dated 28.06.2017 reads as under:

"(i) The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package."

(v) In the case of Unit Container, goods are supplied in a fixed quantity in sealed containers. The Tribunal in the case of Foods & Inns Ltd. v. CCE [2000(118) E.L.T. 486 (Tri-Bom.)], held that the containers used were tins of 10 Kgs., 12.5 Kgs., 20 Kgs., 40 Kgs. and 50 Kgs., and each of the container was to be considered to be a "unit container" as each of them was designed to hold a pre-determined quantity.

(vi) In the present case, the packaging by the appellant could not be considered to hold a pre-determined quantity in the context of each supply made to the buyer. There is no pre-determination in the present case, and packaging is necessary for security, hygiene, preservation and transportation purposes. The Hon'ble Tribunal in the case of CCE v. Shalimar Super Foods [2007 (210) E.L.T. 695 (Tri. - Mum.)] has held the goods cleared in plastic bags not sealed and not containing pre-determined quantities thereon, as not cleared in unit containers for the purpose of classification of meat articles packed therein under C.E.T. sub-heading 1601.10.

(vii) Sealing is not a decisive factor but the pre-determined quantity. The Hon'ble Tribunal in the case of CCE, Chennai v Rajam Condiments [2009 (245) ELT 706 (Tri-Chennai)], held that in absence of pre-determined uniform quantity, the packaged goods cannot fall within the ambit of unit containers.

B. The mention of pre-determined quantity is a necessary requirement to term a package as unit container

(viii) The Ld. AAR had mentioned in the impugned ruling as under:-

We further observe that:-

The HDPE bags are designed to hold a pre-determined quantity or number, so as to carry carcass weighing between 10 to 20 kgs. as is evident from the document submitted by the applicant i.e. Specification No. 209D of Defence Food Specifications-2016, Secretariat of the Technical Standardisation Committee (Food Stuffs) (Directorate General of Supplies and Transport).

(ix) In the present case, the pre-determined quantity is never mentioned on HDPE package. Specification No.209 D of Defence Food Specifications-2016, Secretariat of the Technical Standardisation Committee (Food Stuffs) (Directorate General of Supplies and Transport) mentions as under –

"Final Product

8. Packing. Each dressed chicken (broiler) carcass subsequent to chilling and before freezing shall be individually packed into suitable sized oxygen - water impermeable heat shrink food grade colourless LDPE bags of minimum 200 gauge 50 micron. These LDPE packages will then be packed into dust proof, moisture and heat resistant food grade HDPE bags with thermal stability of minus 50°C to + 60°C, capable of holding 10 kg to 20 kg or suitable plastic crates..."

(x) If the pre determined quantity was meant to be put in each container, then such container should also have bearing of such pre determined number. Understanding is drawn from the definition of unit container definition as provided in Notification No. 1/2017-CT(R), dated 28.06.2017 which reads as under:

"(i) The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package."

(xi) Thus, it should not merely be a pre determined quantity but such pre determined quantity should be printed on the package. In the instant case, there is no predetermined quantity viz , the quantity which is known prior to packaging, which happens in many FMCG industry like half kg rice pack, 2 Kg Pack etc. There is no pre determined quantity printed on the package.

(xii) The Ld. AAR erred in considering the optimum weight to be handled by HDPE bags so as to decide the dimension from handling perspective as standard weight. It must be noted that these bags can hold up to the specified weight, however, these were never the exact standard quantity which was sought to be put in such bags. Thus, there is no pre determined weight printed on such bags and thus, the condition is not fulfilled.

C. The weights of frozen chicken vary from one another and thus the quantity is not pre determined.

(xiii) Since the Appellant is engaged in manufacturing of frozen chicken, the weights are not similar of various frozen chicken. This implies that by no means it can be concluded that all packages are of same quantity.

(xiv) Thus, it is only after the packaging of the chicken one can know the weight and thus, there is **no pre-determined** weight in the containers.

The appellant has relied upon the Advance Ruling(s) by the Authority for Advance Ruling, Maharashtra and Authority for Advance Ruling, Haryana, in various cases including appellant's own case and Ruling by the Appellate Authority for Advance Ruling, Maharashtra in the case of M/s Ahmednagar District Goat Rearing and Processing Co-Op Federation Ltd.

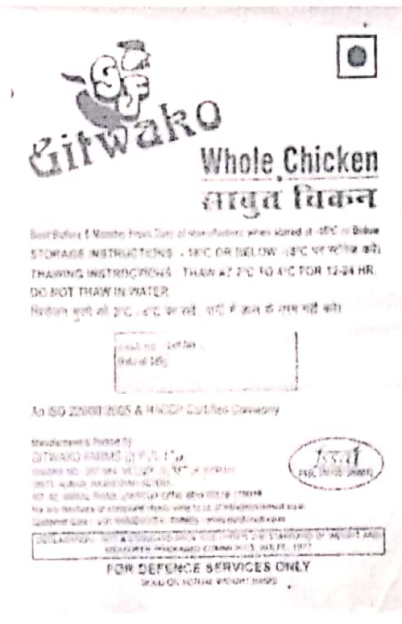
PERSONAL HEARING

7. A personal hearing in the matter was held on 23.07.2019. Sh. Gaurav Gupta C.A. and Sh. Neeraj Garg C.A. authorised representatives of the appellant, appeared for personal hearing on 23.7.2019 on behalf of the appellant. Sh. Gaurav Gupta C.A. submitted additional written submission (narrated below) and explained the points mentioned therein. He had nothing further to add.



ADDITIONAL SUBMISIONS

8. Sh. Gaurav Gupta C.A reiterated the submissions made already in the Appeal Memo and the case laws cited earlier also. He further submitted a sample of the LDPE bag in which one Frozen Chicken is packed and also submitted a sample of HDPE bag in which the primary packages of Frozen Chicken are being supplied. The LDPE bag in which one Frozen Chicken is packed is transparent and having pre printed details of contents (including product name, Firm's name and brand, batch number/lot number and instructions for consumptions and preservation of such chicken). A scanned photo of the LDPE bag is reproduced below for ease of reference:



8.1 The appellant further submitted a letter through e-mail and also by post wherein they stated that even though the work order from Army require putting one chicken carcass in one LDPE Bag, the number is not printed on the LDPE bag and thus, in absence of the requirement of printing the number, the LDPE Bag cannot be called as 'Unit container' as required by the Notification and that the unit of supply in their case is Kilograms and not number. They also submitted that the mentioning of weight on HDPE Bag was discontinued by Army and contended that there is no predetermined quantity printed on the package and thus, the same does not qualify as 'unit container'.

DISCUSSION AND FINDINGS

9. We have carefully gone through the Appeal papers filed by the Appellant, the Ruling of the AAR, Rajasthan, written as well as oral submissions made by the authorized representative(s) of the Appellant, at the time of personal hearing held on 23.07.2019. We find that the appellant vide its Application dated 01.02.2019 filed before AAR, Rajasthan, had requested for Advance Ruling as to -

Question-1: What is the classification when Frozen chicken is sold in packaged form and its HSN code?

Question -2: Whether frozen chicken as sold by the company is exempt under Entry No.9 of the Notification No.2/2017-CT (R), dated 28.06.2017?

10. In pursuance of the aforesaid Application dated 01.02.2019, the Authority for Advance Ruling, Rajasthan (AAR, Rajasthan) in its Ruling No. RAJ/AAR/2019-20/04, dated 22.04.2019 has pronounced its Ruling as under:

(a) The Branded Frozen Chicken supplied in a unit container is classifiable under HSN Code 02071200.

(b) The Frozen Chicken supplied by the applicant is not exempted under Entry No.9 of the Notification No.2/2017-CT (Rate), dated 28.06.2017 (as amended from time to time).

11. The appellant is not satisfied with the above Ruling and has therefore filed the present appeal before this forum.

12. The appellant in the Appeal Memo has submitted that the Indian Army awarded work order to them for supply of a specified amount of weight of chicken dressed chilled/frozen over a specified period of time and also described the process of manufacture, packing and supply of the same according to which the bird is slaughtered and its carcass is processed, sealed and delivered in its natural shape. During the process, each dressed chicken (broiler) carcass subsequent to chilling and before freezing is individually packed in a primary package colourless LDPE bag and then it is put in a secondary package (HDPE Bag). The appellant further submitted that various details/particulars viz. product name, firm's name and brand, net weight (if required), batch number/ lot number and instructions for consumptions and preservation are printed on such HDPE bags. The package is specifically mentioned for Defence Personnel Only. Frozen chicken is then delivered in temperature controlled refrigerated vans with data logger installed for continuous monitoring of frozen chicken. The appellant has contended that each package in the present case may contain a different weight and the quantity in these packages is not pre-determined and also the pre determined quantity (the quantity which is known prior to packaging) is not printed on the packages and therefore, these packages would not qualify as 'unit containers.

13. From the process of manufacture, packing and supply, as described by the appellant, we find that the appellant is, admittedly and undisputedly, engaged in supply of Frozen Chicken in packaged form under its brand name of 'Gitwako' to the Indian Army and the Paramilitary forces against the tenders issued by them.

14. The Authority for Advance Ruling, Rajasthan (AAR, Rajasthan) in its Ruling No. RAJ/AAR/2019-20/04, dated 22.04.2019 has pronounced that Frozen Chicken is classifiable under HSN Code 02071200. The appellant has not raised any objection in the instant appeal against the above ruling regarding classification of Frozen Chicken under HSN Code 02071200.

15. The goods falling under heading 0207 are leviable to GST in terms of Notification No. 01/2017-(CT) Rate, dated 28.06.2017 (as amended from time to time). The relevant Entry of the Notification, prior to the amendment was as under -



Schedule-II (GST@12%)

| S.No. | Chapter/Heading/Sub-heading/tariff item | Description of Goods |
|-------|---|---|
| 7 | 0207 | Meat and edible offal, of the poultry of heading 0105, frozen and put up in unit containers |

The above Entry has since been substituted vide Notification No. 41/2017-(CT) Rate, dated 14.11.2017 as under –

Schedule-I (GST@5%)

| S. No. | Chapter/Heading/Sub-heading/tariff item | Description of Goods |
|--------|---|--|
| 7 | 0207 | All goods [other than fresh or chilled] and put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law, is available [other than those where any actionable claim or enforceable right in respect of such brand name, has been foregone voluntarily], subject to the conditions as in the ANNEXURE]" |

16. Notification No. 02/2017-CT(Rate), dated 28.06.2017 provides exemption to certain goods of heading 0207. Prior to the amendment, position under Notification No. 02/2017-CT (Rate), dated 28.06.2017 stood as under –

| S.No. | Chapter/Heading/Sub-heading/tariff item | Description of Goods |
|-------|---|--|
| 13 | 0207 | Meat and edible offal, of the poultry of heading 0105, {other than frozen and put up in unit containers} |

The above entry has since been substituted vide Notification No. 42/2017-CT (Rate), dated 14.11.2017 vide Entry No. 9 as under –

| S.No. | Chapter/Heading/Sub-heading/tariff item | Description of Goods |
|-------|--|---|
| 9 | 0202 0203 0204 0205 0206 0207 0208 0209 0210 | All goods [other than fresh or chilled] other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law, is available [other than those where any actionable claim or enforceable right in respect of such brand name, has been foregone voluntarily], subject to the conditions as in the ANNEXURE]" |

17. From a plain reading of Notification No. 01/2017-(CT) Rate, dated 28.06.2017 (as amended from time to time), we find that all goods of heading 0207 [other than fresh or chilled] put up in unit container and bearing a registered brand name, are leviable to GST. In this background, the following three conditions are crucial for determining the leviability of GST on the goods falling under heading 0207 –

- (i) Goods should not be merely fresh or chilled.
- (ii) Goods should bear a registered brand name.
- (iii) Goods should be put up in unit containers.



18. In the instant case, we observe that the carcass of the chicken falling under heading 0207 to be supplied by the appellant is not in merely fresh or chilled condition. Admittedly, the carcass of the chicken is to be supplied in frozen state and therefore, the same satisfies the first requirement of levability of GST on it.

19. We further find that each dressed chicken (broiler) carcass subsequent to chilling and before freezing is individually packed in a primary package colourless LDPE bag and then it is put in a secondary package (HDPE Bag) and both primary and secondary packages bear the brand name 'Gitwako'. This is accepted by the appellant also, in its submissions. Accordingly, the packages of supply meet the requirement of bearing a registered brand name.

20. Regarding the third condition that Goods should be put up in unit containers, the meaning and scope of the phrase 'unit container' is important. The phrase 'unit container' has been defined under Notification No. 1/2017-CT (Rate), dated 28.06.2017 (as amended from time to time) as below:

Explanation - For the purposes of this notification,-

"(i) The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package."

In terms of the above, we find that for any package (irrespective of size, nature and shape) to be a unit container, only criteria needs to be fulfilled is that it should be designed to hold a pre-determined quantity or number, which is indicated on the package. The above definition nowhere specifies size, shape or nature of packages to cover the same under the scope of the phrase "unit container". The size, shape and nature of packages depend upon various factors including type of goods to be packed. Further, we find no such restriction that unit container should carry a same quantity in each and every case. We also find that the notification does not impose condition that after putting the goods in unit containers, the supply should also be in the same form i.e. in unit containers.

21. We have carefully gone through the submissions made by the appellant and also the Specification No. 209 D of the Defence Food Specifications-2016, Secretariat of the Technical Standardisation Committee (Food Stuffs) (Directorate General of Supplies and Transport). In the para 8 of the said Specifications - 2016 dealing with 'Packing of the Final product', the following is mentioned:

Final product

8. Packing. *Each dressed chicken (broiler) carcass subsequent to chilling and before freezing shall be individually packed into suitable sized oxygen - water impermeable heat shrink food grade colourless LDPE bags of minimum 200 gauge/50 micron. These LDPE packages will then be packed into dust proof, moisture and heat resistant food grade HDPE bags with thermal stability of minus 50°C to + 60°C, capable of holding 10 kg to 20 kg or suitable plastic crates..."*



22. The instant case involves supply of packaged Branded Frozen Chicken which is an item obtained out of live bird. Looking to the fact that weight of individual Frozen Chicken may vary depending upon various factors such as natural weight of the bird in living condition and weight obtained after dressing etc., the weight of supply in different packages vary according to the number of the chickens, who may have different individual weight, supplied in such packages. Hence, packages of supply in the instant case may carry weight which may vary in a certain range due to peculiarity of the item of supply and conditions in which the item is supplied. **However, the appellant puts each dressed chicken (broiler) carcass in individual packing i.e. LDPE Bags and this primary packing has pre-determined fixed and uniform quantity i.e. one dressed chicken in each package.** The appellant puts these primary packages in HDPE bags which also are designed in such a manner to hold a pre-determined quantity. As such, we find that these LDPE Bags used for individual packing of whole chicken have to be considered as unit container in the instant case. We also find that quantity in such unit containers is pre-determined as each such package has to carry one chicken. The appellant has argued that weight of various frozen chicken is not similar and therefore it implies that all packages are not of same quantity. We find in this regard that it is not necessary that unit quantity should refer only to weight in kilograms only. Unit of quantity of a given item depends upon the nature of the item in question and the form in which it is supplied and the use it is intended to be put to. In the instant case the appellant is supplying frozen chicken which is obtained out of live bird and after slaughtering, stuffed in its natural shape. In terms of the specifications determined for the supply, the appellant has to supply frozen chicken and not meat of chicken, that too, by preserving its natural shape. Hence, weight in Kgs. cannot be the primary and only determinant of unit quantity because emphasis has been laid on supply of chicken in natural shape which naturally has to be quantified primarily in numbers. Number of chicken supplied being the primary determinant the weight of such supply can vary according to the weight of live bird and other relevant factors and, therefore the weight of supply in the secondary packing, though pre determined, has to be specified in a range suitable for accommodating the weight of the birds. In any case, range of weight also happens to be a pre-determined quantity and the said range combined with the one number of chicken put up in the primary package can be taken to be pre-determined quantity put up in a unit container.

23. **We find that one dressed chicken (broiler) carcass is packed in each LDPE bag which implies that the primary package contains pre determined quantity i.e. one in number as from definition of unit container it is clear that unit container must hold a pre-determined quantity or pre-determined number.** These primary packages are put in HDPE bags. These HDPE bags which are used for supply of the Final product i.e. Frozen Chicken, are also designed to hold a pre-determined quantity, so as to carry chicken weighing between 10-20 kgs. Being individual packing of whole chicken in colourless (transparent) LDPE bag, mentioning of quantity on such LDPE bags has no meaning especially in the case where buyer and seller both are having prior knowledge of factual position. In view of the fact that whole frozen chicken is being packed by the appellant in individual LDPE bag in pre-determined



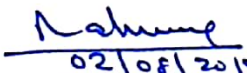
quantities (one in number) and then it is put in a secondary package (HDPE Bag) for supply, we find that such supplies are in the nature of **supply in unit containers**. Thus, the requirement of phrase '**unit container**', as laid down in the aforesaid Explanation to the Notification No.1/2017-CT (Rate), dated 28.06.2017 (as amended) is satisfied and therefore, the goods supplied by the appellant to the Indian Army, are not exempted under Entry No.9 of the Notification No.2/2017-CT (Rate), dated 28.06.2017 (as amended).

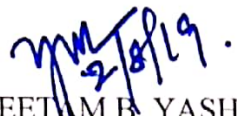
24. The appellant in their grounds of appeal has relied upon the decisions of CESTAT in the case of Foods & Inns Ltd. v. CCE [2000(118) E.L.T. 486 (Tri-Bom.)], CCE v. Shalimar Super Foods [2007 (210) E.L.T. 695 (Tri. - Mum.)] & CCE, Chennai v Rajam Condiments [2009 (245) ELT 706 (Tri-Chennai)]. However, we are of the considered view that the said decisions are distinguishable in the facts and circumstances of the case and of no assistance to the appellant as the said decisions are not in the context of GST. The appellant has also relied upon the Advance Ruling(s) by the Authority for Advance Ruling, Maharashtra and Authority for Advance Ruling, Haryana, in various cases including appellant's own case and Ruling by the Appellate Authority for Advance Ruling, Maharashtra in the case of M/s Ahmednagar District Goat Rearing and Processing Co-Op Federation Ltd. We find that the exact nature of the activities in these cases is not before us, it is not possible to compare whether these cases are identical to the instant case or not.

25. In view of the above, we hold that Branded Frozen Chicken packed by the appellant in individual LDPE bag in pre-determined number (one in number) and supplied to the Indian Army and Paramilitary forces in the HDPE bags is leviable to GST in terms of Notification No. 1/2017-CT(Rate), dated 28.06.2017 (as amended) and exemption from the levy of GST under Entry No. 9 of the Notification No. 2/2017-CT(Rate), dated 28.06.2017 (as amended) is not available to such supplies. In view of the foregoing, we pass the following order:

ORDER

26. We reject the appeal filed by the appellant and uphold the Advance Ruling dated 22.04.2019, rendered by the Rajasthan Authority for Advance Ruling, Goods & Services Tax, Jaipur, holding that supply of Branded Frozen Chicken packed by the appellant in individual LDPE bag in pre-determined quantities (one in number) and supplied to the Indian Army and Paramilitary forces in the HDPE bags as supply in **Unit Container** and not exempted under Entry No. 9 of the Notification No. 2/2017-CT(Rate), dated 28.06.2017 (as amended).


02/08/2019
(RAKESH KUMAR SHARMA)
MEMBER (CENTRAL TAX)


(DR. PREETAM B. YASHVANT)
MEMBER (STATE TAX)



To

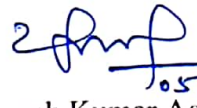
Gitwako Farms (India) Pvt. Ltd.,
Opposite Alwar Public School,
Village Kesarpur,
Alwar-301001 (Rajasthan)

F.No. IV(16)AAAR/RAJ/01/2019-20/ 7818-7824 Dated. 05 August, 2019

Copy to :-

1. The Chief Commissioner of CGST & Central Excise (Jaipur Zone), NCR Building, Statue Circle, Jaipur-302005.
2. The Commissioner of RGST & Commercial Taxes, Rajasthan, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.
3. The Principal Commissioner, Alwar Central GST Commissionerate, Block - A, Surya Nagar, Alwar, Jaipur-301001.
4. The Deputy/Asstt. Commissioner, Division - A, Alwar Central GST Commissionerate, Old Industrial Area, Behind Railway Station, Alwar, Jaipur-301001.
5. The Member, Rajasthan Authority for Advance Ruling, Goods and Service Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005
6. Guard File

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05/08/2019
(Umesh Kumar Agrawal)
Superintendent