

**THE AUTHORITY FOR ADVANCE RULINGS IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 53 /2020

Dated :12-10-2020

Present:

1. Dr. M.P.Ravi Prasad

Additional Commissioner of Commercial Taxes ...Member (State Tax)

2. Sri. MashhoodurRehmanFarooqui

Joint Commissioner of Central Tax, ...Member (Central Tax)

1.	Name and address of the applicant	M/s The Karnataka State Co-operative Marketing Federation Limited No.8, Cunningham Road, Bengaluru-560052.
2.	GSTIN or User ID	29AAAAT3829K1Z3
3.	Date of filing of Form GST ARA-01	10-07-2020
4.	Represented by	Sri. MukulHarinathSringeri, CA Authorised Representative.
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, Bangalore North GST Commissionerate. (RANGE-DND3)
6.	Jurisdictional Authority – State	LGSTO 020-BENGALURU
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 each under CGST Act and under SGST Act vide PRN IP2906200003433 dated.26-06-2020

ORDER UNDER SECTION 98(4) OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s The Karnataka State Co-Operative Marketing Federation Limited (herein after referred as applicant), No.8, Cunningham Road, Bengaluru-560052 having GSTIN number 29AAAAT3829K1Z3, filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of CGST Rules 2017, and Section 97 of the KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM



GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

FACTS OF THE CASE:

2. The applicant has submitted that the Government of India announces Minimum Support Price for oilseeds and pulses under its Price Support Scheme (PSS). The Department of Agriculture, Co-operation and Family Welfare has appointed National Agricultural Co-operative Marketing Federation Limited (NAFED) as one of the nodal agencies to Government of India for implementation of PSS.

3. The applicant has submitted that they have been appointed as the State Level Supporter (SLS) by the State Government of Karnataka to implement the Price Support Scheme (PSS). Accordingly, the applicant procures Kharif Arhar (Tur) and Kharif Green Gram from the farmers and supply it to NAFED.

4. Further the applicant submitted that they procure gunny bags from third parties at transaction value plus GST @ 5%. These gunny bags are utilised to pack the Kharif Arhar (Tur) and Kharif Green Gram as per the specifications issued by NAFED, the product does not bear any brand name. Cost of transportation of crop procured, handling charges, gunny bag pre-tax value is reimbursed by NAFED and NAFED also pays 2% of the Minimum Support Price as Administrative Markup to the applicant.

5. In this background, the applicant had sought Advance Ruling on

1. Whether the transaction of supplying Kharif Arhar (Tur) Crops and Green Gram crops from farmers to NAFED is a taxable supply? What is the rate of tax to be charged for sale of Agricultural produce to NAFED, if it is to be treated as taxable supply?
2. Whether GST paid on purchase of Gunny bags by KSCMFL eligible to be claimed as Input tax credit?
3. Whether provisions of Section 51 and Notification 50/2018 – Central Tax dated 13th September 2018 applicable on KSCMFL i.e. is KSCMFL required to deduct TDS u/s 51 of CGST/KGST Act, 2017 on payments to be made by KSCMFL to NAFED?



6.

APPLICANT'S INTERPRETATION OF LAW:

6.1. The applicant submitted that they are in the business of procurement of Tur Dal and Green Gram from farmers at the Minimum Support Price and sell the same to NAFED. The transaction of selling of tur dal and Green Gram to NAFED falls within the scope of Supply as per section 7 of the CGST/KGST Act, 2017. The Tur Dal and Green Gram are classified under HSN Classification 07136000 and 07133100 respectively. The supply of tur dal and green gram to NAFED is an exempted supply as per Notification No.2/2017- Central Tax(Rate) dated 28th June, 2017.

6.2. The applicant submitted that they procure gunny bags from third party suppliers by paying transaction value along with GST @5% and used to pack the tur dal and green gram which are exempted from GST. The applicant though satisfies all the conditions specified under Section 16, section 17 of CGST/KGST Act, 2017 read with Rule 41 of the CGST/KGST Rules, 2017 specifies that the amount of credit shall be restricted to so much of input tax as is attributable to said taxable supplies. Hence the input taxes paid on purchase of gunny bags are ineligible to be claimed as input tax credit.

6.3. The applicant further submitted that they are a co-operative society registered under the Registrar of Co-operative Societies of Mysore and not a society established by the Central Government or the State Government or a local authority under the Society Registration Act, 1860. They further submitted that it is neither established by any Government with 51% or more participation by way of equity or control, to carry out its function. The section 51 of the CGST Act 2017 mandates following persons can deduct the TDS;

- a. a department or establishment of the Central Government or State Government; or
- b. local authority; or
- c. Governmental agencies; or
- d. such persons or category of persons as may be notified by the Government on the recommendations of the Council,



Further Notification 50/2018 Central Tax dated 13th September, 2018 has notified list of persons falling under clause “d” above who are required to deduct TDS and they are:

(a) An authority or a board or any other body

ii. Set up by an Act of Parliament or State Legislature; or

iii. Established by any government

With 51% or more participation by way of equity or control, to carry out any function

b. Society established by the Central Government or the State Government or a local authority under the Society Registration Act, 1860

c. Public Sector Undertakings.

The applicant submitted that they do not fall under the list given neither in Notification 50/2018 – Central Tax dated 13.09.2018 nor under the list prescribed under Section 51 of CGST/KGST Act, 2017. Therefore the provisions of TDS as prescribed under section 51 of CGST/KGST Act, 2017 are not applicable on the applicant.

PERSONAL HEARING:

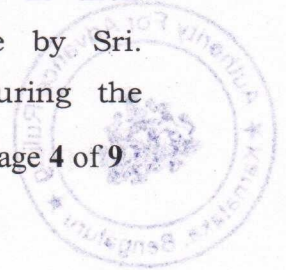
7. Sri. MukulHarinath Sringeri, CA and Duly Authorized Representative of the applicant appeared for personal hearing proceedings before this Authority and reiterated the submissions as narrated above.

FINDINGS AND DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *parimateria* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. MukulHarinathSringeri, CA and Duly Authorized Representative during the

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personal hearing. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

10. On verification of the nature of the activity carried out by the applicant it was observed that the Government of India announces Minimum Support Price for oilseeds and pulses under its Price Support Scheme (PSS). The Department of Agriculture, Co-operation and Family Welfare has appointed National Agricultural Co-operative Marketing Federation Limited (NAFED) as one of the nodal agencies to Government of India for implementation of PSS. However, in the State of Karnataka, Government has appointed the applicant as the State Level Supporter (SLS) to implement the Price Support Scheme (PSS) announced by the Government of India. As per the scheme, the applicant procures Kharif Arhar (Tur) commonly known as Pigeonpea (*Cajanus cajan*) and Kharif Green Gram (*Vigna radiata*) from the farmers and supply it to NAFED.

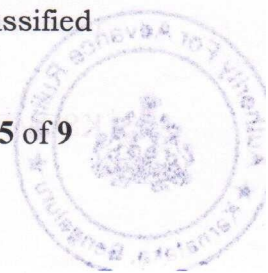
11. In view of the above we shall examine whether the supply of Kharif Arhar (Tur) and Kharif Green Gram to NAFED is within the scope of supply in terms of Section 7(1)(a) of the CGST Act 2017.

Section 7(1) (a) of the CGST Act, 2017 stipulates that any transaction to get qualified as 'supply', must contain the following three components.

- i. The transaction must involve a supply of goods or services or both, such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made.
- ii. The transaction must be for a consideration
- iii. The transaction must be in the course or furtherance of business

In the instant case, the applicant is involved in the supply of the Kharif Arhar (Tur) and Kharif Green Gram to NAFED procured from the farmers for which applicant receives consideration in the course or furtherance of business. Hence the supply of Kharif Arhar (Tur) and Kharif Green Gram to NAFED by the applicant amounts to supply in terms of Section 7(1)(a) of the CGST Act 2017.

12. Further, Kharif Arhar (Tur) commonly known as Pigeon pea (Scientific name *Cajanus cajan*) and Kharif Green Gram (Scientific name *Vigna radiata*) is classified



under Chapter 7 of the Custom Tariff Act. The detail of the HSN Classification is as under.

Tariff Item	Description of goods
0713	DRIED LEGUMINOUS VEGETABLES, SHELLED, WHETHER OR NOT SKINNED OR SPLIT
0713 10	Peas (<i>Pisum sativum</i>):
0713 10 10	Yellow peas
0713 10 20	Green peas
0713 10 90	Other
0713 20	Chickpeas (<i>garbanzos</i>):
0713 20 10	Kabuli chana
0713 20 20	Bengal gram (<i>desi chana</i>)
0713 20 90	- Other
	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.):
0713 31	- Beans of the species <i>Vigna mungo</i> (L.) Hepper or <i>Vigna radiata</i> (L.) Wilczek
0713 31 10	Beans of the species <i>Vigna mungo</i> (L.) Hepper
0713 31 90	Beans of the species <i>Vigna radiata</i> (L.) Wilczek
0713 32 00	Small red (<i>Adzuki</i>) beans (<i>Phaseolus</i> or <i>Vigna angularis</i>)
0713 33 00	Kidney beans, including white pea beans (<i>Phaseolus vulgaris</i>)
0713 34 00	Bambara beans (<i>Vigna subterranea</i> or <i>Voandzeia subterranea</i>)
0713 35 00	Cow peas (<i>Vigna unguiculata</i>)
0713 39	Other :
0713 39 10	Guar seeds
0713 39 90	Other
0713 40 00	Lentils
0713 50 00	Broad beans (<i>Vicia faba</i> major) and horse beans (<i>Vicia faba</i> equina, <i>Vicia faba</i> minor)
0713 60 00	Pigeon peas (<i>Cajanus cajan</i>)
0713 90	Other :
0713 90 10	Split
0713 90 90	Other

Hence Kharif Arhar (Tur) and Kharif Green Gram classified under the HSN 07136000 and 07133190 respectively.

13. The tariff item 0713 relating to Dried Leguminous Vegetables, shelled, whether or not skinned or split listed under the entry No.45 of the Notification No.2/2017- Central Tax(Rate) dated 28th June, 2017. Hence the supply of tur dal and green gram without any brand name by the applicant to NAFED is an exempted supply as per entry No.45 of the Notification No.2/2017- Central Tax(Rate) dated 28th June, 2017.

14. Further the applicant purchasing gunny bags from third parties to pack the procured Kharif Arhar (Tur) and Kharif Green Gram from the farmers, by paying



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GST @ 5%. Since the supply of tur dal and green gram is an exempted supply as per entry No.45 of the Notification No.2/2017- Central Tax(Rate) dated 28th June, 2017 the input paid on purchase of gunny bags is ineligible to claim as input tax credit as per subsection 2 of section 17 of the CGST Act, 2017. The subsection 2 of section 17 of the CGST Act 2017 clearly says that, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies. The subsection 2 of section 17 of the CGST Act 2017 is narrated as under;

17(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

Hence input tax paid on the purchase of gunny bags shall not be claimed as input tax credits per subsection 2 of section 17 of the CGST Act 2017 as the applicant used the said gunny bags for packing and supplying exempted goods.

15. Further with regard to the third question it is admitted by the applicant that applicant is the co-operative society registered under the Registrar of Co-operative Societies of Mysore and it is not the society established by the Central Government or the State Government or a local authority under the Society Registration Act, 1860. The section 51 of the CGST Act 2017 mandates following persons to deduct the Tax at source:-

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

Further Notification 50/2018 Central Tax dated 13th September, 2018 has notified list of persons falling under clause "d" above who are required to deduct TDS and they are:

- (a) An authority or a board or any other body
 - i. set up by an Act of Parliament or State Legislature; or



ii. established by any government
with 51% or more participation by way of equity or control, to carry out any
function

- (b) Society established by the Central Government or the State Government or a
local authority under the Society Registration Act, 1860
(c) Public Sector Undertakings.

In view of the above applicant is neither established by any Government with
51% or more participation by way of equity or control, to carry out its function
nor is a Society established by the Central Government or the State Government
or a local authority under the Society Registration Act, 1860. Hence the
applicant is not covered under the list provided either in the Notification
50/2018 – Central Tax dated 13/09/2018 or under the list prescribed under
Section 51 of CGST/KGST Act, 2017. Therefore the provisions of TDS as
prescribed under section 51 of CGST/KGST Act, 2017 are not applicable to the
applicant.

16. In view of the foregoing, we rule as follows

RULING

The supply of Kharif Arhar (Tur) and Green Gram to NAFED is an exempted
supply as per entry No.45 of the Notification No.2/2017- Central Tax (Rate)
dated 28th June, 2017.

2. GST paid on purchase of Gunny bags shall not be claimed an input tax
creditas per subsection 2 of section 17 of the CGST Act 2017.
3. The provisions of TDS as prescribed under section 51 of CGST/KGST Act,
2017 does not apply to the applicant.


(Dr. M.P. Ravi Prasad)

Member MEMBER

Karnataka Advance Ruling Authority

Place : Bengaluru, Bengaluru - 560 009

Date : 12-10-2020


(Mashhoodur Rehman Farooqui)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, Bengaluru NorthCommissionarate, Bengaluru
4. The Asst. Commissioner, LGSTO-020, Bengaluru.
5. Office Folder.

