

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32, 5TH
FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI – 600 003

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

- 1.Thiru Senthilvelavan B., I.R.S, Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
- 2.Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner(ST)/Member
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 40 /ARA/2020 Dated: 18 .12.2020

GSTIN Number, if any / User id		33ABAFM0641E1ZY
Legal Name of the Applicant		Vallalar Borewells
Trade Name of the applicant		Vallalar Borewells
Registered Address / Address provided while obtaining user id		No.10-C, Melapudur Main Road, Trichy- 620 001.
Details of Application		10/2020 ARA dated 17.03.2020
Concerned Officer		State : Assistant commissioner, Palakarai Assessment Circle, Centre : Trichy Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision
B	Description (in brief)	The Applicant carries on the borewell drilling for Individual Houses, Commercial and Industrial Buildings, and for agricultural purpose. Applicant also lets out on lease Compressor for agriculture purpose.
Issue/s on which advance ruling required		Applicability of a notification issued under the provisions of this Act.
Question(s) on which advance ruling is required		1.Whether the following supply of services provided by the applicant are in relation to agricultural operations directly in connection with raising of agricultural produce i. Drilling of Borewells for supply of water for agricultural operations like cultivation

	<p>including seeding, planting and ploughing.</p> <p>ii. Letting out of compressors for pumping of water from the borewells to the agricultural fields.</p> <p>2. If the answer to the above question is in the affirmative, whether the said services are covered by the entry Sl. No 54 of Notification 12/2017 CT(Rate) dated 28.06.2017.</p>
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Note: Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub Section (1) of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.

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

M/s. Vallalar Borewells, No.10-C, Melapudur Main Road, Trichy 620 001. (hereinafter referred as 'Applicant') is registered under the GST vide GSTIN No. 33ABAFM0641E1ZY. They have sought Advance Ruling on the following questions:

1. Whether the following supply of services provided by the applicant are in relation to agricultural operations directly in connection with raising of agricultural produce:

i. Drilling of Borewells for supply of water for agricultural operations like cultivation including seeding, planting and ploughing.

ii. Letting out of compressors for pumping of water from the borewells to the agricultural fields.

2. If the answer to the above question is in the affirmative, whether the said services are covered by the entry Sl.No54 of Notification 12/2017 CT (Rate) dated 28.06.2017

The applicant has submitted the copy of the application in Form GST ARA-01 and also submitted a copy of challan evidencing payment of application fees of

Rs.5000/- each under sub-rule(1) of Rule 104 of CGST Rule 2017 and SGST Rules 2017.

2.1 The applicant has stated that they provide drilling of borewell services mainly to agriculturists engaged in raising of agricultural crops. Water is a part and parcel of essential requirements in cultivation and raising of agricultural crops. Likewise, compressors which are let out by them to agriculturists enable the motor to function and discharge water as required for cultivation and allied agricultural uses. They also obtain a confirmation letter from the agriculturist that the borewell drilled in their land is used only for the agricultural purpose.

2.2 On the Interpretation of Law, the applicant has stated that a plain reading of the relevant portion of the said notification supra is very clear and unambiguous in covering agricultural operations directly related to raising of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing. In their case the borewells drilled provides the required quantity of water for cultivation of agricultural crops. The supply of compressors which becomes a part of the motor, which pumps water from the borewells/wells for agricultural operations is inseparable from the activity of cultivation. Hence the said supply of service is squarely covered by the above entry.

3. Due to the prevailing pandemic situation and in order not to delay the proceedings, the applicant was addressed through the email address mentioned in their application to seek their willingness to participate in a virtual personal hearing in digital media vide email dated 06.07.2020. The applicant consented and the hearing was held on 13.08.2020. The authorized representative appeared and reiterated their submissions in the application. They were asked to produce the following:

1. List of compressors which is being let out
2. Sample documents for letting out/confirmation letter
3. Work order for drilling borewells/invoice raised in all categories
4. P&L Account or Balance sheets

4. In furtherance to the above Hearing, the applicant submitted the following documents on 11.09.2020 and 15.09.2020

- i. Invoice No. EX/18-19/051 dated 05.01.2019 raised on Duraisamy, Viralimalai for 'Drilling and Hire Charges for agriculture' under the

- Description HSN 9986 along with Letter dated 05.01.2019 of C. Duraisamy addressed to the applicant stating the drilling of borewell in the agricultural land and that they intend to use well for agricultural purposes and document of Revenue Department to establish the ownership of the land with Shri. C. Duraisamy;
- ii. Invoice No. 19-20/08/047 dated 05.08.2019 raised on V.R. Muthu & Bro's, Ayanrediyapatti for 'Drilling Hire Charges' with CGST & SGST under the description HSN 995434;
 - iii. Invoice No. 19-20/06/022 dated 13.06.2019 raised on Anand Engineering Products Pvt Ltd., Kulithalai-Tk, Karur for 'Drilling Hire Charges' with Output CGST & SGST under the description HSN 995434;
 - iv. ITR Acknowledgement for the Assessment Year 2019-20 along with Memo of Taxable income for the A.Y. 2019-20;
 - v. Profit & Loss Account for the year ended 31.03.2019;
 - vi. Balance Sheet as on 31.03.2019;
 - vii. Invoice No. EX/18-19/034 dated 12.08.2018 raised on Shri. Ganesan, Villapatti, Iluppur for 'Drilling and Hire Charges for agriculture' under the Description HSN 9986 along with Letter dated 12.08.2018 of Shri. Ganesan addressed to the applicant stating the drilling of borewell in the agricultural land and that they intend to use well for agricultural purposes and document of Revenue Department to establish the ownership of the land with Shri. Ganesan
 - viii. Invoice No. 26/08/18-19 dated 09.08.2018 raised on Sriram Chemicals for Drilling Hire Charges with CGST & SGST under the description HSN 995434
 - ix. Invoice No. 08/05/18-19 dated 02.05.2018 raised on FSM Hyper P Ltd for Drilling Hire Charges with CGST & SGST under the description HSN 995434
 - x. ITR Acknowledgement for the Assessment Year 2018-19 along with Memo of Taxable income for the A.Y. 2018-19
 - xi Profit & Loss Account for the year ended 31.03.2018;
 - xii. Balance Sheet as on 31.03.2018.

5. The applicant is under the administrative jurisdiction of State authorities. The State Jurisdictional authority vide their letter Rc. No. 0391/2020/A1 dated 15.06.2020 has stated that

- Drilling of bore- well is a one-time process and supply of water is another process. Further, water drawn from the bore-well may be used for agriculture purpose or also for any other means. So, it cannot be construed that it is exclusively used only for agriculture purpose.
- With reference to supply of water for cultivation, seeding, planting and ploughing, bore-well are being used when there is water scarcity otherwise, when water is released from the dam, the use of bore well is minimum or may not be used. So there is 50:50 chances for use of such borewell.
- In respect of letting out of compressors for pumping of water from the bore-wells to the agricultural fields they have stated that there are two types of services.
 - One is selling of suitable motor (compressor) along with bore well and another is letting out of compressors for the bore-well at the time when the compressor is needed.
 - Compressors may be used in two ways. One way it is used to draw water from the bore well and another for some other purpose. So, it cannot be stated for which purpose, the compressor is being used unless it is specified.
 - It seems that it not a naturally bundled composite service, but an artificially bundled composite service. The inference of the applicant is to obtain an Advance Ruling on such artificially bundled composite service.
- In respect of the Q.No.2 there is no mention about compressor or bore well as mentioned by the applicant. The application is made based on the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017. There is no mention about water which is the primary source of such cultivation, harvesting threshing, plant protection of testing, etc., in the above said notification. So, it clearly proves that it is an artificially bundled composite service and not a naturally bundled composite service. Therefore, it does not fall under the ambit of services covered under heading 9986.

They have also stated that there is no show cause notice / issue pending adjudication in their office.

6. The Central jurisdictional authority vide their letter dated 13.08.2020 reported that there are no pending proceedings in the applicant's case on the issues raised by the applicant in their ARA application in their jurisdiction.

7. Further, the applicant vide letter date 05.11.2020, was asked to furnish the list of compressors which is being let out as required in the virtual hearing held on 13.08.2020 and the applicant has not furnished the said details.

8.1 We have carefully examined the statement of facts filed by the Applicant along with application, oral and written submissions made at the time of Virtual hearings and the comments/remarks of the Jurisdictional Authorities. We find that the applicant carries on the borewell drilling for Individual houses, Commercial and Industrial buildings and for agricultural purpose. They also let out compressor for agricultural purpose on lease. The applicant has sought ruling on the following questions:

1. Whether the following supply of services provided by them are in relation to agricultural operations directly in connection with raising of agricultural produce:

- i. Drilling of Borewells for supply of water for agricultural operations like cultivation including seeding, planting and ploughing.
- ii. Letting out of compressors for pumping of water from the borewells to the agricultural fields.

2. If the answer to the above question is in the affirmative, whether the said services are covered by the entry Sl. No. 54 of Notification 12/2017 C T(Rate) dated 28.06.2017

The question is on the eligibility of the notification to their activities and therefore, the application is admissible under Section 97(2) of the CGST/TNGST Act 2017.

8.2 Having decided the eligibility of the application to be admitted, we take up the issues raised. The applicant carries on borewell drilling. From the documents furnished, it is seen that they raise invoice as 'Exempted sales' when the drilling is made for 'Agriculture' and in such cases, the invoice is raised classifying the services under SAC 9986 and no tax is charged. When the drilling is undertaken for Industries (other than agriculture), the invoice is raised as 'Tax Invoice', classifying the service under SAC 995434 and appropriate tax (CGST & SGST) is collected. The issue raised before us pertains to the 'drilling and hire service for agriculture', which the applicant classifies under SAC 9986 as 'Support services for

agriculture'. The contention of the applicant is that the borewells drilled provides the required quantity of water for cultivation of agricultural crops and the entry Sl.No.54 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 covers agricultural operations directly related to raising of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; the borewells drilled provides the required quantity of water for cultivation of agricultural crops.; the supply of compressors which becomes a part of the motor that pumps water is inseparable from the activity of cultivation and therefore is a 'Support service for agriculture'.

8.3 The relevant entry of Sl. No. 54 Notification No 12/2017 is as below:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
54	Heading 9986	Services relating to cultivation of plants	Nil	Nil
		and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.		

To be eligible for exemption under this entry, the activity is to be classifiable under SAC 9986. SAC 9986 as per the Explanatory Notes to the Scheme of Classification of Services is as follows:

9986 Support services to agriculture, hunting, forestry, fishing, mining and utilities

99861 Support services to agriculture, hunting, forestry, and fishing

998611 Support services to crop production

This service code includes

- i. services to improve the propagation quality of the seed, including treatment of genetically modified seeds; removal of non-seed materials, undersized, mechanically or insect-damaged and immature seeds; removal of seed moisture to a safe level for seed storage; drying, cleaning, grading and treating of seeds to be marketed;
- ii. post-harvest crop services such as preparation of crops for primary markets, cotton ginning services;
- iii. Other support services to crop production like tilling of fields preparatory to planting; planting, cultivation and fertilization of crops; spraying, including from the air;
- iv. pest control for agriculture; trimming of fruit trees and vines; transplanting and thinning of crops; harvesting;
- v. provision of agricultural machinery with crew and operators; operation of irrigation systems for agricultural purposes;
- vi. other services necessary for agricultural production; Crop production services on inputs owned by others like operation of a crop production unit on a fee or contract basis

This service code does not include:

- formation and clearance of agricultural land, cf. 995432
- services provided by agronomists and agricultural economists, cf. 998311
- other pest control services, cf. 998531
- water distribution services through mains (on a fee or contract basis), cf. 998633

From the above, it is evident that 'Provision of agricultural machinery with crew and operators' and 'operation of irrigation systems for agricultural purposes' are listed as 'Support services to crop production'. In the case at hand the applicant does not undertake the 'operation of irrigation system for agricultural purposes' and also 'compressors' are not agricultural machinery. They undertake the activity of drilling of borewells in the agricultural land and let out compressors. The said activity is not classifiable under SAC 9986. It is pertinent to note that even setting up of an irrigation system with pipe lines are classifiable only under SAC 9983 and the activity of 'operation' of such irrigation system alone is coded as 'Support service to agriculture'. In the case at hand, the applicant undertakes only drilling of bore wells in the agricultural land and are letting out compressors. The applicant are classifying the same under SAC 995434, when the said activity is

undertaken in places other than agricultural land and under SAC 995434 when the drilling is done in other than agricultural land. SAC 995434 is extracted below:

995434 Water well drilling and septic system installation services

This service code includes

- i. special trade construction services involving drilling or digging water wells, installation services of water well pumps and well piping systems;
- ii. installation services of septic systems, including aerobic septic systems, evaporation-transpiration (ET) septic systems, greywater systems, holding tank septic systems, pressure dosing septic systems, septic disinfection systems, chemical, composting, incinerating and waterless toilets;
- iii. construction services of leach fields or drainfields

Water-well drilling services are specifically covered under 995434 and the said category includes all Water-well drilling services without any exceptions. Therefore, it is evident that the drilling of borewell without exceptions (even in the agricultural land) is a construction service involving drilling water well and not a support service for agriculture. As the activity do not merit classification under SAC 9986, the applicant is not eligible for exemption as per Sl. No. 54 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017.

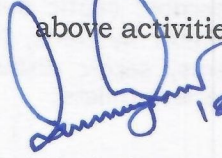
8.4 In respect of letting of Compressor, the applicant claims that the same is let out for pumping water from the bore-wells drilled by them in the agricultural land, on drilling of the said wells and therefore is a 'Support service for agriculture'. Their contention is that water is essential for cultivation and the compressor are let out to pump water. Compressor is not an agricultural machinery and is a General-Purpose Machinery. Also, only provision of agricultural machinery with crew and operators are stated as 'Support service for agriculture'. Therefore, letting out of the same is also not a 'Support service for agriculture' classifiable under SAC 9986 and the applicant is not eligible for exemption as per Sl. No. 54 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017.

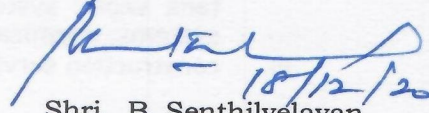
9. In view of the above findings, we rule as under

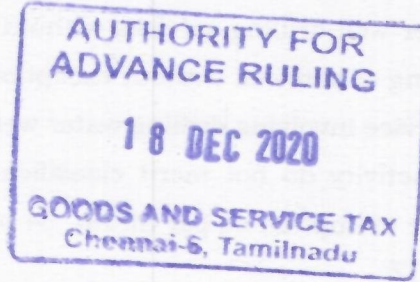
Ruling

1. Drilling of Borewells for supply of water in agricultural land is not 'Support Service for agriculture classifiable under 'SAC 9986' for the reasons stated in para 8.3 above

2. Letting out of compressors for pumping of water from the borewells to the agricultural field is not 'Support Service for agriculture classifiable under 'SAC 9986' for the reasons stated in para 8.4 above
3. The above two activities of the applicant are not 'Support service for agriculture' classifiable under SAC 9986 and therefore the exemption at Sl.No.54 of Notification No.12/2017-C.T (Rate) is not applicable to the above activities of the applicant.


Shri Kurinji Selvan
(Member SGST)


Shri. B. Senthilvelavan
(Member CGST)



To

M/s Vallalar Borewells
No.10-C, Melapudur Main Road,
Trichy 620 001.

//By RPAD//

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

4. The Principal Commissioner of GST & Central Excise, Trichy Commissionerate,
1, Williams Road, Cantonment, Trichy 620 001.
5. The Assistant Commissioner (ST), Palakarai Assessment Circle
21/11, SBI Officers Colony, Lawson Road, Contonment, Trichy 620 001.
6. Master File/ Spare-2