



**HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICE TAX,**



**HARYANA VANIJYA BHAWAN, PLOT NO. 1-3,
SECTOR 5, PANCHKULA-134151 (HARYANA)**

ADVANCE RULING NO. HR/HAAR/03/2022-23

Name & Address of the Applicant.	M/s PI Industries Limited 5 th Floor, Vipul Squire, B Block, Sushant Lok Phase 1, Gurgaon, Haryana 122009
GSTIN of the Applicant.	06AABCP2183M1Z9
Date/Receipt of Application:	08.06.2022
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the questions have been raised by the applicant.	(b) Applicability of a notification issued under the provisions of this Act; (d) Admissibility of Input tax paid or deemed to have been paid. (e) Determination of the liability to pay tax on any goods or services or both. (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
Date of Hearing:	14.07.2022

Memo] 416

Dated: 02/12/2022

APPLICANT'S ELIGIBILITY FOR SEEKING AN ADVANCE RULING:

To file an application before the Authority of Advance Ruling, the applicant must satisfy the conditions prescribed under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act, 2017) and Haryana Goods and Services Tax Act, 2017 (hereinafter referred to as HGST Act, 2017). Since the provisions of both the Acts are *parimateria*, any reference to provisions of CGST Act, 2017 in this order should be construed as a reference to corresponding provisions in HGST Act, 2017/IGST Act, 2017 as well.

Sections 97(2) of the CGST Act, 2017 prescribes that Advance Ruling may be sought inter alia on the questions of (b) Applicability of a notification issue under the provisions of this Act. (d) Admissibility of Input tax paid or deemed to have been paid. (e) Determination of the liability to pay tax on any goods or services or both. (g) Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term.

Proviso with reference to the Section 98(2) of CGST Act, 2017 states that where the questions raised in the application is already pending or decided in

any proceedings in the case of the applicant under any provision of this Act, the application may be rejected by the Advance Ruling Authority after providing an opportunity of being heard to the applicant. But in this case, the applicant has undertaken in form ARA-01 that the issue is neither pending nor decided in any proceedings under any of the provisions of the Act. Besides the applicable fees in the case stands paid by the applicant. So, he is eligible to seek an Advance Ruling under the above provisions and the case is being heard on merits.

Statement of facts as per ARA-01:-

The Applicant is engaged in the business of manufacturing of agrochemicals. It supplies the agrochemicals to the dealers/distributors who then supply the same to farmers. The quantity of agrochemicals in the packets supplied by the Applicant to dealers/distributors is higher than the one supplied by dealers/distributors. The Applicant supplies the agrochemicals to dealer/distributors in its standard packing (50x100 ml) however, after receiving the agrochemicals, the dealers/distributors may sell the same in retail packages of 100 ml to their customers/farmers. **Besides the Applicant supply the services of spraying agrochemicals to the farmers. The spraying of the agrochemicals is undertaken on the crops at the agricultural farm for the protection of the crop produce and such service is provided to the farmers directly. The applicant has elaborated the matter as following:-**

(i) Agrochemicals

The agrochemicals play a vital role in reducing crop loss from a range of insects, herbs, fungus, nematodes, rodents, pests etc. It helps in improving the yield and farm income of the farmers. The agrochemicals are used for controlling disease, insects and weeds in the crop produce. They need to be applied to plants and soil in the form of a spray. **The main function of a sprayer is to break the chemicals into droplets of effective size and distribute them uniformly over the agricultural land which needs to be protected.** The agrochemicals include herbicides, fungicides and insecticides which help to (a) reduce competition from weeds to the crop (b) minimize the effects of fungal diseases, (c) control the infection spread from various kinds of insects, pests and (d) provide micro-nutrients such as manganese or boron to the soil.

(ii) Spraying Services

- (a) **The agrochemical industry is competitive, therefore, to increase the customer base and brand value, the Applicant decided to start an**



entirely different activity of providing the spraying services to the farmers which is completely independent and different activity from its manufacturing and distribution of agrochemicals.

- (b) The Applicant provides the spraying service to farmers and the consideration for such service is directly paid by farmers to the Applicant. The spraying service is provided at the agricultural land of the farmers during the pre-harvesting period only, i.e. either when the crop is about to be sown or when the crop is standing. The agrochemicals used while providing the spraying service do not alter the characteristics of the crops or the agricultural produce and the activity is undertaken only for crop protection and to make the crop produce suitable for consumption and marketable for the primary market.
- (c) The farmer approaches the Applicant directly for availing the spraying services after purchasing the agrochemicals from the dealer/distributor. The Applicant raises an invoice on the farmers for the services provided against the consideration which is determined as per the area of agricultural land for which spraying services are availed.
- (d) **The spraying service is provided only when the farmer uses the agrochemicals manufactured by the Applicant. The Applicant does not provide spray services with respect to any other company's crop protection chemicals.**
- (e) It is to be noted here that the sale of agrochemicals to distributors/dealers is independent of the spraying service provided to the farmers. They are under no obligation to ensure that the farmers procure the spraying services from the Applicant.
- (f) **The farmers are also under no obligation to procure the spraying services from the Applicant while buying the agrochemicals from the Applicant's distributors/dealers. However, in the event farmer wishes to procure the spraying services from the Applicant then the agrochemicals have to be procured from the Applicant's distributors/dealers only. They can either approach the Applicant directly or approach it via dealers/distributors. In case of latter, no additional remuneration or consideration is provided to the dealers/distributors.**
- (g) For undertaking the spraying service, the Applicant imports the spraying machines from Japan and pays the applicable IGST under Integrated

Goods and Services Tax Act (hereinafter referred to as "IGST Act"). The ownership of the machines belongs to the Applicant and the operating cost of the spraying machine i.e. driver's salary, fuel, repair and maintenance, depreciation is also borne by the Applicant. The farmer pays a consideration for the spraying services procured by it from the Applicant.

Submissions made by the applicant on the legality of the issue at hand;

The Applicant states that the activity related to spraying of agrochemicals provided by him to the farmers is covered under Sr. No. 54 of the Notification No. 12/2017- CT and under Serial No. 57 of the Notification 9/2017- Integrated Tax (Rate) dated 28.06.2017, as amended (hereinafter referred to as "Notification No. 9/2017-IT"). The relevant provisions are as under:-

(a) Determination of Supply of goods and services

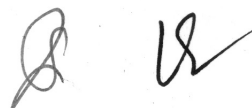
As per Section 9 of CGST Act, tax is levied on all intra-state supply of goods or services or both, except on the supply of alcoholic liquor for human consumption. Similarly, the respective state legislations provide for the levy of State Goods and Services Tax (hereinafter referred to as "SGST") on all intra-state supply of goods or services or both. As per Section 5 of the IGST Act, IGST is levied on all inter-state supply of goods or services or both. It is important to examine the meaning ascribed to the words i.e. goods, services and supply under the CGST Act.

(i) Section 2(54) of CGST Act define "Goods" as every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

(ii) Section 2(102) of CGST Act defines "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(iii) Section 7(1) of CGST Act defines **supply** as:

- all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;



- import of services for a consideration whether or not in the course or furtherance of business; and
- the activities specified in Schedule I, made or agreed to be made without a consideration.

In the present matter, there are two supplies which are being undertaken by the applicant.

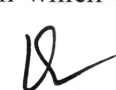
First supply is undertaken when the agrochemicals are supplied to the distributors/dealers for which consideration is directly paid by the distributors/dealers to the Applicant. The second supply is undertaken when the spraying services are provided directly to the farmers for which consideration is paid by the farmers to the Applicant. **Hence, one supply takes place between the Applicant and distributors/dealers. The second supply takes place between the Applicant and farmer which is the supply of spraying services. Both the supplies are independent of each other.**

The distributors/dealers are under no obligation to ensure that the farmers who buy the agrochemicals from them also procure the spraying services from the Applicant. The only role of the distributors/dealers is to supply the agrochemicals to the farmers, thus, it is clear that the supply of agrochemicals by the Applicant to the distributors/dealers is independent of any spraying service that may/may not be provided by the Applicant to the farmer directly for consideration. Separate invoices are issued by the Applicant for the supply of goods (to dealers/distributors) and the supply of services (to farmers). **The farmer has to approach the Applicant separately to avail the spraying services from it and the same is under a separate and independent arrangement between the Applicant and the farmer.** It is pertinent to mention here that the recipients in both the supply i.e. **the supply of agrochemicals and supply of spraying services are different. Both the supplies are independent of each other and have no correlation with each other.**

(b) Levy of GST of the supply

From above, it can be said that the service of spraying agrochemical as provided by the Applicant to the farmers is an independent supply of services under the CGST, HGST as well as IGST Act, 2017. The spraying services is provided to farmers against consideration, thus, the taxability of the same shall arise in terms of Section 7(1) read with Section 9 of the CGST Act.

The Central Government vide Notification No. 12/2017- CT notified the list of exempted intra-State supply of services, i.e. the services on which central tax

would be exempt. similarly vide Notification No. 9/2017 IT notified the list of exempted inter-state supply of services, i.e. the services on which integrated tax would be exempted.

Sr. No. 54 of the Notification No. 12/2017-CT and Sr. No. 57 of the Notification No. 9/2017 IT, provide an exemption from payment of tax for the services relating to the cultivation of the plants. Since both the entries are similarly worded, therefore, the provision is reproduced only for the reference:

Chapter, Section, Heading, Group or Service code (Tariff)	Description of Goods	Rate (Per Cent.)	Condition
(2)	(3)	(4)	(5)
Heading 9986	Services relating to cultivation of plants 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	NIL	NIL



	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; (h) services by way of fumigation in a warehouse of agricultural produce		
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In order to fall under the above entry, the service should be covered under Heading 9986. In this regard, it is submitted that as per the Explanatory Notes to the Scheme of Classification of Services adopted for the purposes of GST, the



spraying service as provided by the Applicant is covered under the heading 998611 i.e. 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.

In the present case, the services undertaken by the Applicant is that of spraying of agrochemicals and is of the nature of pest/weed etc. control. Thus, it clearly falls under the heading of 9986 and satisfy the first requirement.

Secondly, for a service to fall under the concerned relevant entry is that it should be related to cultivation of agricultural produce.

The Cambridge Advance Learner's Dictionary & Thesaurus, 4th Edition, Colin McIntosh, defines cultivation as "the act of preparing land and growing crops on it, or the act of growing a particular crop". Hence the service should be related to growing of crop. As mentioned earlier, the spraying of agrochemicals helps in a healthy growth of crops and protect the crops from being damaged by pests, weed etc. It helps in improving and promoting the growth of existing crops Thus, it clearly qualifies as service relating to cultivation.

Clause 2(d) of the Notification No. 12/2017- defines "Agricultural Produce" as:

"any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other

similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for the primary market."

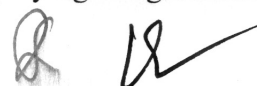
This definition has three ingredients:

- a) The produce must emerge from cultivation of plants or rearing of all life forms of animals.
- b) Either no further processing is done or such processing is done as is usually done by a cultivator or producer on the said produce.
- c) The process undertaken does not alter its essential characteristics but makes it marketable for primary market.

The spraying services as undertaken on crops consists of only above processes and not beyond them. All the three ingredients are fulfilled in the present case in the following manner:

- i) The first condition is that the produce must emerge from cultivation of plants or rearing of all life forms of animals. The crops on which spraying services is carried out is produced from cultivation of the crops which are in nature of plants.
- ii) The second condition is that either no further processing is done, or such processing is done as is usually done by a cultivator or producer on the said produce. The process of spraying agrochemicals is undertaken as per the requirement and conditions stipulated by the cultivator or producer or farmer. **At this stage it is pertinent to mention that the farmers can also undertake spraying on their own.** However, in order to ensure efficient spraying with minimal wastage and optimum results, such services are provided by the Applicant to the farmers. The Applicant is merely an agent in present case. So, it can be said that the spraying of agrochemicals is done on behalf of the cultivator or producer at the agricultural farm.
- c) The third condition is that the process undertaken does not alter its essential characteristics but makes it marketable for primary market. The spraying services are usually carried out to protect the crop from being infected by insects, weeds, herbs etc. The spraying services are directly related to the agricultural production and cultivation process. It helps the crop produce to attain the desired quality for the primary market. The said activity does not alter the essential characteristics i.e. **the shape, size, texture, colour, odour and cooking qualities of the agricultural produce.**

It only protects the crop and makes it suitable for consumption and marketable for the primary market. It is to be noted here spraying of agrochemical



protects the produce from the attack of pest, weed, rodents etc. Such activity is essential for the production of the crop i.e. without the spraying of agrochemicals, the production of the crop would not be complete and the produce would not be ready for the primary market.

Further, the Applicant has placed its reliance on the case of **M/S. SGS INDIA PRIVATE LIMITED (2020 (10) TMI 766) & M/S. SHRI SAI PEST CONTROL [2021 (1) TMI 335]** to support his contention

It is also stated that the spraying service fall under Sr. No. 54 of the Notification No. 12/2017-CT and Sr. No. 57 of the Notification No. 9/2017-IT, and the two clauses which are relevant in the present case are Clauses (a) and (c). Since the language of the above stated notifications is similar, therefore the clauses are reproduced only once:

Clause (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing.

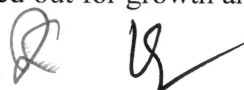
In the view of the Applicant, in order to fall under Clause (a), following requirements should be fulfilled:

- a. Service should be directly related to cultivation of the agricultural produce;
- b. Service should be undertaken by way of agricultural operations;
- c. The agricultural operations should be in nature cultivation, harvesting, threshing, plant protection or testing.

In this regard, it is submitted that the service of spraying agrochemicals is undertaken on the crops and at the agricultural land in order to protect the crops from weeds, pests etc. It has a direct impact on the growth as well as on health of the crops fulfilling the first condition.

And secondly the services relating to the cultivation of plants or agricultural produce should be provided by way of agricultural operations. So, it is necessary to understand the meaning of the word "agricultural operations" which has not been defined in the Act and Rules made thereunder.

Whereas the Hon'ble Supreme Court in the case of **CIT v. Raja Benoy Kumar Sahas Roy (AIR 1957 SC 768)** has held that the agricultural operations are of two types (1) Basic operations which include cultivation of the land and consequently tilling of the land, sowing of seeds, planting and all such operations that require the human skill and effort directly on the land itself and (ii) Subsequent operation which includes operations that are carried out for growth and



preservation of the produce like weeding, digging soil around the crops grown etc. and those operations which would make the product fit for use in the market like tending, pruning, cutting, harvesting, etc. Further, the Hon'ble Supreme Court also held that agricultural operations in the wider sense comprise within its scope the basic as well as the subsequent operations, regardless of the nature of the products raised on the land. The principles which emerge from the case of **C.I.T. v. Benoy Kumar (supra)**, has been laid down by the Hon'ble Supreme Court in the case of **Maheshwari Fish Seed Farm v. T. Nadu Electricity Board and Ors. (2004 (4) TMI 632-SC)**

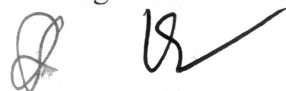
On the basis of the above judicial pronouncements of the Apex Court, it can be said that "agricultural operations" as a whole, consist of basic operations as well as subsequent operations performed in conjunction with each other on the agricultural produce. Whereas basic operation is the activity of cultivation and subsequent operations are activities of harvesting, threshing, plant protection or testing, etc., which essentially enhances the produce and makes it fit for market.

In the present case, the language employed under the exemption Notifications is "agricultural operations" directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing. As established above, "cultivation" is the basic operation whereas "plant protection" etc. are subsequent operations. **Both these activities are included under agricultural operations and hence the scope of agricultural operations is wide enough to cover both these activities.**

In view of above, it can be said that the spraying services impacts the growth and operations. preservation of the agricultural produce thus, qualify as agricultural operations.

With respect to the third condition, the word "Plant Protection" as per the Journal of Plant Biochemistry & Physiology (Abdullah Baque, Importance of Crop Protection, Volume 9, Issue 5. (2021)] means "the act of overseeing climate, weeds, pests and diseases that harm or repress the development of natural product, vegetable and other crops". In the present case, the spraying services are supplied by the Applicant to farmers on the crops at the agricultural land to preserve them from insects, pests etc. Thus, all three conditions stand fulfilled.

The spraying service helps the farmer to protect its agricultural produce from weeds, insect infestation and fungus and also help farmers to produce safe and quality crop for consumption without altering the essential characteristics of such crop produce. As a matter of fact, if such agrochemicals are



not sprayed, the crop may/can get damaged. Further, spraying in correct proportion is also important as both excess and lesser spray may not give optimum result.

The Applicant is of the view that the spraying services as provided by it are covered under Sr. No. 54, clause (a) of Notification No. 12/2017-CT and Sr. No. 57 of the Notification No. 9/2017-IT. Alternatively, the Applicant is of the view that the said spraying services also fall under Sr. No. 54, clause (c) of Notification No. 12/2017-CT and Sr. No. 57 of the Notification No. 9/2017- IT. Clause (c) is as under:

(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.

In order to fall under said sub-clause, following conditions are requisite:

- (a) Service should be directly related to cultivation of the agricultural produce;
- (b) The processes should be carried out at an agricultural farm;
- (c) The operations should be in the nature of tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations.
- (d) The essential characteristics of agricultural produce should not be altered.
- (e) The service should make the agricultural produce marketable for the primary market.

The first condition is that the service should be directly related to cultivation of agricultural produce and since it has already been discussed above. It is reiterated that this condition stands fulfilled.

The second condition is that the process should be carried out at an agricultural farm. The word "process" and "farm" are essential in the said condition, therefore, it is necessary to understand the meaning of the said words. The word "process" has been defined by the Oxford Learner's Dictionary of Academic English as "a method of doing or making something, especially one that is used in industry" and the word "farm" as per Cambridge Advance Learner's Dictionary & Thesaurus, 4th Edition, Colin McIntosh, means "to use a land for growing crops and/or keeping animals as a business".

In the present case, there is pre-defined method of spraying the agrochemicals in terms of quantity, surface etc. Further, the service of spraying

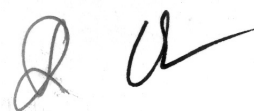
agrochemicals is undertaken on the crops at the agricultural farm of the farmer itself. Thus, the second condition also stands fulfilled.

The third condition states that the operation should be in the nature of cutting, harvesting, fumigating etc. In the present matter, the word "fumigating" is related with the services provided by the Applicant. Therefore, it is essential to understand the meaning of the word "fumigating". The Cambridge Advance Learner's Dictionary & Thesaurus, 4 Edition, Colin McIntosh, defines it as "the use of poisonous gas to remove harmful insects, bacteria, disease, etc. from somewhere or something" and the Oxford Learner's Dictionary defines it as "the use of special chemicals, smoke or gas to destroy the harmful insects or bacteria in a place". The agrochemicals through the process of the spraying are used on the crops at the agricultural farm to protect the produce from the attack of pests, weeds and rodents etc. Thus, this condition is also fulfilled by the Applicant.

The fourth condition is that the services as provided by the assessee should not alter the essential characteristics of the agricultural produce. In this regard, it is submitted nature, shape, size, texture, color, odor, and cooking qualities etc of the crops pre and post the spray remain same. Thus, the spraying services do not alter or affect these characteristics of the crop produce. Thus, the services provided by the Applicant also fulfil this condition.

The fifth condition is that the services should make the produce marketable at the primary market. In this regard, reliance in this regard is placed on the case of **M/S. SHRI SAI PEST CONTROL (supra)**, wherein it was held that the term 'primary market' is understood as a platform or a place, like a mandi, where the farmers are directly selling to the buyers, including the wholesalers, mills, food processing units, exporters, etc.

Thus, the spraying services as provided by the Applicant to the farmers are for plant protection and undertaken at the agricultural farm while the crop is standing. The agrochemicals are essential to protect the crop from being infected by insects, weeds, rodents, fungus etc. **The spraying services are directly related to the agricultural production and cultivation process and help the crop produce to attain the desired quality for the primary market.** The said activity does not alter the essential characteristics of the agricultural produce. It only protects the crop and makes it suitable for consumption and marketable for the primary market. It is abundantly clear that the service of spraying agrochemicals is a support service to crop production which is provided by the



Applicant to the farmers to protect their crop produce and to make the crop produce suitable for consumption, and marketable for the primary market.

Hence, all the requirements of Sr. No. 54, clause (c) of Notification No. 12/2017-CT and Sr. No. 57 of the Notification No. 9/2017 IT are fulfilled by the Applicant. Therefore, the spraying services as provided by the Applicant to the farmers are exempted supply of service as per Notification No. 12/2017-CT and Notification No. 9/2017-IT.

Further, Section 16 of CGST Act provides that every registered person shall be entitled to take credit of input tax which was charged on any supply of goods or services or both and which are used or intended to be used in the course or furtherance of his business

And Section 17 of CGST Act provides that the goods or services or both which are used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies then the amount of input tax credit shall be restricted to the input tax which is attributable to the taxable supplies including zero-rated supplies.

In terms of Section 16 and Section 17 of CGST Act, the Applicant will not be eligible to claim input tax credit of inputs and input services used for undertaking supply of spraying services as they qualify as exempted services. Alternatively, the Applicant is of the view that in the event the spraying services are not exempted from payment of the tax under the Notification No. 12/2017-CT, then the Applicant as per Section 16 of the CGST Act is entitled to take credit of input tax of inputs and input services used for undertaking the supply of spraying services subject to the fulfilment of the conditions enumerated under Section 16(2) of the CGST Act.

Queries on which Advance Ruling have been sought:-

1. Whether the supply of spraying services undertaken by the Applicant is covered under Notification No. 12/2017-CT and hence, exempted from payment of tax?
2. If tax is payable, then whether Applicant can avail input tax credit of inputs and input services used for undertaking supply of spraying services?

PERSONAL HEARING:

Sh. Ankit Awal, advocate presented the case on behalf of the applicant on 14.07.2022. He briefed the matter to the authority. The matter was examined by the authority and further a notice was issued to the applicant on 22.09.2022 vide



which he was advised to submit the bills raised by him to the farmers/agriculturalists. Secondly, the list of agrochemicals manufactured by the applicant was also sought. Thereafter, the applicant submitted the requisite details on 16.11.2022 which is as under:-

Sr. No.	Particulars	Details and Annexure No.
1.	Name and nature of the crops on which spraying of agrochemicals services is provided by us.	The crops on which agrochemicals are sprayed: • Wheat, • Sugarcane, • Corn (Rabi), • Cotton (Kharif)

Besides the applicant has submitted a list of agro chemicals manufactured by him and the images of the spraying machines along with the sample invoices raised by him to the farmers for providing the services of spraying of the manufactured agrochemicals. And the Jurisdictional Officer of the Applicant has not submitted any comments on the matter.

DISCUSSION AND FINDINGS:

The matter has been perused by the Authority in *extenso*. All the factual and legal provisions with reference to the services provided by the applicant to the farmers has been examined by the Authority. We have considered the submissions made by the applicant in the application as well as the arguments made by his representative. The main issue in this case is to decide whether the services of spraying agrochemicals manufactured by the applicant is a taxable or an exempted supply vide entry no. 54 of notification no. 12/2017-CT(R) dated 28.06.2017? To decide whether the services supplied by the applicant is exempted or not, we have to look into the nature of activity carried by him. The applicant himself has quite elaborately discussed the issue at hand which is reproduced as above.

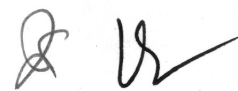
Some important terminology mentioned under the provisions of the Act related to the services provided to the agriculture sector are as under:-

a. Section 2(7) of CGST Act, 2017 "agriculturist" means an individual or a Hindu Undivided Family who undertakes cultivation of land-

- (a) by own labour, or
- (b) by the labour of family, or
- (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

Further, in general we define **Agriculture** as the science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products.

b. Agriculture Produce



As per para 2 (d) of the notification no 12/2017- CT(R) dated 28th June, 2017, it means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for the primary market.

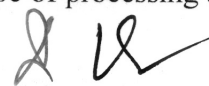
This definition appended with the notification clarifies that the produce out of the cultivation and produced by an agriculturist is an exempted supply under the Act. The said definition limits the scope of processing and allows only those activity which help the produces to attain the condition of its 1st marketability in the primary market. After it attains the condition of 1st marketability the definition restricts all other further processes **on the Produce** for further sale to be termed as agriculture produce. Once the products attains its first marketability for the primary market all other subsequent processes or produce leading to value addition and subsequent sale belong to the realm of secondary market thereon refraining the produce to fall under the category of Agricultural produce as defined in the Notification. **Meaning thereby that any support services to be rendered to the agriculturist which helps in producing the crop which is fit for the primary market.**

The term Primary market has not been defined under the GST Act. It is understood in common parlance as a platform or a place, like a mandi, where the farmers are directly selling to the buyers, including the wholesalers, mills, food processing units, exporters, etc.

It means that the services related to the cultivation of plants including support services as may be required till the farmer disposes the agricultural produce in the primary market. All the services and processes beyond the realm of the primary market are excluded from the exemption.

In brief, it can be said that Agriculture Produce as per the definition needs to have three essential necessary elements i.e.

- a) The Produce must emerge from **cultivation of plants** or rearing of all life forms of animals.
- b) Either no further processing is done or such processing is done as is usually done by a cultivator or producer on the said produced. i.e. meaning thereby the Produce must broadly retains its physical and chemical constitution/form.
- c) The process undertaken should not alter its essential characteristics but makes it marketable for primary market i.e. the definition limits the scope of processing and



allows only those activities which help the produce to attain the condition of its first marketability in primary market.

c. Agriculture Operations

The word Agriculture Operation has not been defined under the Provisions of GST Act whereas the word finds mentioned with reference to the support services to agriculture (SAC 9986) and As per explanation (i (a)) appended with entry no. 24 of notification no. 11/2017- CT(R) dated 28th June, 2017. Support Services to Agricultural means *Agricultural Operations* directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing.

Further, in common parlance, Agricultural operations means the growing and harvesting of crops for the primary purpose of making a profit, providing a livelihood. Agricultural operations do not include activities involving the processing or distribution of crops. On this point, we can say that Agricultural operations includes preparing of land, sowing of seeds and tending the crop, watering and protecting it from pests, insects and other fungal and bacterial infections which results into maximum production of the crop and makes it fit/suitable for the primary market or for sale.

d. Agriculture Process

In general, the term Agricultural Process means the processing of crops after harvest, to prepare them for on-site marketing or processing and packaging elsewhere. It can be said that Processing of agriculture produce means transforming, packaging, sorting, or grading livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for non food use. In the issue at hand, we can say that the services provided by the applicant is not related to the agricultural process.

e. Agriculture extension:-

Agricultural extension means application of scientific research and knowledge to agricultural practices through farmer education or training. Agricultural extension is another name for agricultural advisory services. In practical terms, extension means giving farmers, the knowledge of agronomic techniques and skills to improve their productivity, food security and livelihoods. In the present matter, the applicant's supply of services of spraying in the fields is not part of agriculture extension.

f. Support services related to agriculture

Basically support services means any support in relation to the use of, and the identification and resolution of problems in the hosted services, but shall not include the provision of training services. These services are processes that professionals use to execute a core program and functions that generate revenue. Further, Agricultural support services means the aerial or surface application of seed, fertilizer, pesticides or soil amendments and custom harvesting. The relevant entry with reference to the **Support services to crop production is SAC 998611**

which states that this service code includes (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;

Conclusion:-

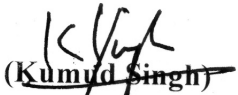
From the above discussion on the matter, the Authority is of view that the services of spraying of agrochemicals provided by the applicant to the farmers is an exempted supply under the Act as he provides the spraying service directly to the farmers and the consideration for such service is paid by farmers to the Applicant. The spraying service is provided at the agricultural land of the farmers during the pre-harvesting period only. The agrochemicals used while providing the spraying service do not alter the characteristics of the crops or the agricultural produce and the activity is undertaken only for crop protection and to make the crop produce suitable for consumption and marketable for the primary market. It is covered under the support services to agriculture as nil rated vide notification no. 11/2017 –CT(R) dated 28th June, 2017. Similarly, the said services rendered by the applicant can be classified under the services related to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or agriculture produce by way of (a) Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing. And (c) Processes carried out at agricultural form including tending, pruning, cutting, harvesting, drawing, cleaning, trimming, sun-drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agriculture produce but make it only marketable for the primary market which are nil rated and notified at Sr. No. 54 of the notification no. 12/2017 –CT(R) dated 28th June, 2017.

Ruling: -

Questions	Answers
1. Whether the supply of spraying services undertaken by the Applicant is covered under Notification No. 12/2017-CT and hence, exempted from payment of tax?	Yes

2. If tax is payable, then whether Applicant can avail input tax credit of inputs and input services used for undertaking supply of spraying services?	NA
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(Sunder Lal)
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(Kumud Singh)
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Copy to:

1. The Additional Commissioner, Central Goods & Service Tax Commissionerate, Plot No. 5, Sector 25, Panchkula (Haryana).
2. The Deputy Excise and Taxation Commissioner (ST), Hisar, Haryana.
3. The Deputy/ Assistant Commissioner, Central Goods & Service Tax, Commissionerate Range -21, Division Karnal.

Note: An Appeal against this advance ruling order lies before the Haryana Appellate Authority for Advance Ruling for Goods and Service Tax Haryana Vanijya Bhawan, Plot No. 1-3, Sector 5, Panchkula-134 151 (Haryana), within 30 days from the date of service of this order.