

No. /STC/CG/AAAR/01/2022

APPELLATE AUTHORITY FOR ADVANCE RULING
CHHATTISGARH

**3RD & 4TH FLOOR, VANIJYIK KAR (GST) BHAWAN, SECTOR-19,
NAVA RAIPUR ATAL NAGAR, (C.G.) 492002**

PROCEEDINGS OF THE APPELLATE AUTHORITY FOR ADVANCE
RULING U/s 101 OF THE CHHATTISGARH GOODS AND SERVICES
TAX ACT, 2017

BEFORE THE BENCH OF

- (1) Shri Chandra Prakash Goyal, Member
(2) Shri Rajat Bansal, Member

Order No. /STC/CG/AAAR/01/2022 Dated 26/04/2024

Name & Address of the Appellant Shri Dongarmal Jain, S/o Phool Chand Jain,
Proprietor, M/s Shraddha Traders, Village – Jeora
Sirsa, Durg, District-Durg, (C.G.)

GSTIN 22ACGPI3748N1ZE

Order of AAR under STC/AAR/08/2022, Dated 31-10-2022
Appeal before AAAR

PROCEEDINGS

[Under Section 101 of the Central Goods & Services Tax Act, 2017 and
Chhattisgarh Goods & Services Tax Act, 2017]

1. At the outset, we would like to make it clear that the provisions of the Central Goods & Services Tax Act, 2017 (here-in-after referred to as the "CGST Act") & the Chhattisgarh Goods & Services Tax Act, 2017 (here-in-after referred to as the "SGST Act" or "CGGST Act") are mirror images of each other except for certain specific provisions. Therefore, unless a specific mention is made, a reference to the CGST Act would mean a reference to the similar provisions under the CGGST Act and vice versa. Further, the expression 'GST Act' would be a common reference to both the CGST Act and CGGST Act.

2. This present appeal dated 13.12.2022 has been filed under Section 100 of the CGGST Act, 2017.

3. **Brief Facts of the case :-**

3.1 The appellant is engaged in the business of running a rice mill and the present appeal has been filed by them seeking advance ruling regarding classification & applicability of GST on sale of Rejected Paddy Seed which has



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been informed to be not fit for human consumption & could be used for Industrial Usage, Cattle Feed Production, Manure Production, etc. The appellant have been awarded tender by Chhattisgarh State Cooperative Marketing Federation for purchase of Rejected paddy and out of the said purchase; certain portion could be sold as such. The appellant in the present case was planning for sale of Rejected Paddy in the bags having quantity of more than 25 Kg. Relevant extract of tender documents issued by Chhattisgarh State Cooperative Marketing Federation having details of Rejected paddy categorized for usage as Animal Feed, Cattle Feed, Poultry Feed, Industrial use was also furnished.

3.2 Question(s) on which advance ruling was sought for:-

- (i) Classification and applicability of GST Rate on the Sale of Rejected Paddy Seed in a bag of quantity more than 25Kg.
- (ii) Applicability of S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017.
- (iii) Determination of liability to pay tax on supply of rejected paddy sale.
- (iv) As the rejected paddy is further categorized based on its usage such as Animal Feed, Cattle Feed, Poultry Feed, Industrial use, Manure etc. Would it make any differential classification under each category from the GST perspective based on Harmonized System of Nomenclature?
- (v) If answer to above is affirmative, then provide the HSN classification & GST rate based on usage separately.

4. Advance Rulings :-

The Authority for Advance Ruling vide Order dated 31.10.2022 gave advance ruling as under-

- (a) *Rejected paddy seed would merit classification under chapter heading 100610, subject to the compliance of the stipulations and condition as mentioned in the Section note and chapter note specified therein.*
- (b) *The exemption from whole of tax as provide under S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017 as amended vide Notification No. 07/2022- Central Tax (Rate), dated 13.07.2022 is not eligible for supply of "Rejected paddy/ Damaged paddy" for the reasons as discussed above.*
- (c) *"Rejected paddy/ Damaged paddy" per se supplied by the applicant, procured by them although merits classification under chapter 1006 10 subject*



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to adherence of the conditions as stipulated under chapter note and section note discussed supra, would be leviable to tax @ 2.5% CGST+ 2.5% CCGST.

(d) Regarding categorization of rejected paddy based on its usage such as animal feed, cattle feed, poultry feed, industrial use, manure etc. This authority finds that for want of adequate details regarding the process undertaken by the applicant through which such rejected paddy would be converted to animal feed, cattle feed, manure etc. No conclusive ruling regarding classification from the GST perspective based on HSN could be delivered.

5. Question raised before Appellate Authority for Advance Ruling (AAAR):-

The question before the Appellate Authority is regarding classification of rejected paddy seed and taxability on the sale of the same in a bag of quantity more than 25 Kg and whether the exemption under S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017 is applicable on the same or not.

6. Grounds of Appeal:-

The appellant filed an application dated 13.12.2022 before us wherein it is stated that-

(i) The AAR in its order dated 31-10-2022 found the classification of goods under chapter heading "1006 - RICE" correctly but erred in concluding that the exemption vide S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017 are not applicable in the present case vide Para 12.3 of impugned order dated 31.10.2022.

(ii) Notification No. 01/2017 dated 28.06.2017 provides the 5% GST rate to Rice which is pre-packaged and labelled covered under HSN - 1006 whereas Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017 provides the exemption to Rice which is other than pre-packaged and labelled covered under HSN - 1006. Therefore, notification has made distinction only on the base of pre-packaged and labelled and other than pre-packaged and labelled.

(iii) As per Chapter 10 of Customs Tariff, covered cereals & the relevant classification of rejected paddy falls under "HSN Code 1006 - Rice".

(iv) The relevant Explanatory note to HS Code 1006, covers "Rice in the husk (Paddy or rough rice), that is to say, rice grain tightly enveloped by the husk hence, the same is covered under exemption of S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017 as amended by Notification No. 07/2022-Central Tax (Rate), dated 13.07.2022.



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(v) Hence, the rejected paddy is covered under HSN 1006 10 and also eligible for exemption under HSN heading 1006.

(vi) The only question which needs to be addressed is that when will be the rice classified as pre-packaged and labelled and when as other than pre-packaged and labelled which is governed by the clause (i) of Section 2 of the Legal Metrology Act, 2009.

(vii) AAAR, Uttarakhand in case of M/s Sam Overseas vide order No. 08/18-19 dated 30.03.2019 has ruled that rejected paddy is covered under HS Code-10061010 and is exempt therein vide Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017.

7. Personal Hearing :-

Keeping with the established principles of natural justice, a virtual personal hearing in the matter was granted to the appellant initially on 19.04.2023. Accordingly, Shri Shubhan Jain, CA & Shri Deepak Kumar Jain, CA, the authorized representative of the appellant appeared virtually and reiterated their contention as submitted in their application dated 13.12.2022. However, the order could not be issued as both the earlier members of the AAAR got transferred and new members joined the offices. Hence, a personal hearing in the matter was again granted to the appellant on 21.02.2024, in virtual mode. Accordingly, Shri Deepak Kumar Jain, CA, the authorized representative of the appellant appeared virtually and reiterated their contention as submitted in their application dated 13.12.2022.

8. Discussion and Findings: -

8.1 Accordingly, after careful consideration of the case, ruling of the AAR, relevant rules, regulations and notifications there-under various statutory guidelines having bearing on the issue in hand and raised by the appellant, we proceed to decide the case in accordance with the law.

8.2 On quick glance through the case records, we find that the issue under consideration in brief is-

(a) Whether the rejected paddy (further categorized based on its usage such as Animal Feed, Cattle Feed, Poultry Feed, Industrial use, Manure, etc.) is covered under S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017 i.e. exemption notification?

(b) Whether the rejected/damaged paddy can be said to be of seed quality?

Whether the rejected/damaged paddy has been rightly covered under 1006 10 by AAR?



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8.3 We are of the opinion that for being a seed quality cereal crop, some basic characteristics must be there, such as-

- (a) Seed purity
- (b) Sprouting capacity
- (c) It must be free from seed borne diseases and pests

8.4 From above mentioned basic characteristics of a seed quality cereal crop, it is clear that rejected/damaged paddy as the name suggests, is much less likely to be of seed quality cereal crop as it won't have sprouting capacity. Rejected/damaged paddy is devoid of all characteristics of a seed quality cereal crop. In this regard, AAR has rightly rejected the claim of appellant for putting it under HSN 1006 10 10. Held accordingly.

8.5 To determine the exact classification, the relevant portion of the Chapter heading 1006 of GST tariff is as below:-

Chapter Sub-heading\ Tariff-Item	Description of Goods
1006	Rice
1006 10	-Rice in the husk (paddy or rough)
1006 10 10	--- Of seed quality
1006 10 90	--- Others

On perusal of the classification from the table above, we differ with the AAR in placing the 'Rejected/ Damaged Paddy' under HSN 1006 10 i.e. Rice in the Husk (Paddy or Rough). Paddy becomes rice after the removal of husk by threshing. Thus, rice is a part of paddy. This classification (1006 10) is suitable for regular rice which is fit for human consumption, which is to be understood in common parlance. Rejected/ Damaged paddy is altogether a different class. Rejected/ Damaged paddy is the one which can't be consumed by human beings as it is not fit for human consumption. As discussed above, it would not fall under seed quality. Therefore, appropriately it should be placed under HSN 1006 10 90. Held accordingly.

8.6 Now, we come to examine the applicability of S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017. It is an exemption



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notification and goods placed under this notification are wholly exempt from GST. At S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017, it is, "1006 Rice (other than pre-packaged and labelled)"

8.7 For proper understanding of the term labelled/ pre-packaged, the FAQs released by the Tax Research unit (TRU) of the Department of Revenue, Ministry of Finance on 17.07.2022 is helpful. Clarification at S. No. 2 of Table under Para 2 of FAQ dated 17.07.2022 deals with "*What is the scope of 'pre-packaged and labelled' for the purpose of GST levy on food items like pulses, cereals, and flours?*" wherein exemption from tax has been clarified specifically on rice, which in general parlance means that such rice is fit for human consumption. Hence, such rice must be of food quality. The question whether rejected paddy is pre-packaged and labelled and other than pre-packaged and labelled should be checked only after it is established that the rejected paddy is of food quality or not.

8.8 It is quite clear from the explanation of pre-packaged/labelled food items vis-a-vis S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017, that Rice (Other than pre-packaged/ labelled) should be of food quality and it must be fit for human consumption for being exempt. But Rejected/ Damaged Paddy, in the instant case, fails to fulfil these basic characteristics of being fit for human consumption. Rejected/damaged paddy has lost its food quality and human consumption value. As per appellant, rejected/damaged paddy is to be used in Industrial Usage, cattle feed etc. Also, no documents have been submitted by the appellant to show that whether the said 'Rejected/ damaged paddy' will be directly used by the Industries or it will undergo through some other processes. Thus, we conclude that Rejected/Damaged Paddy doesn't fall under S. No. 70 of Notification No. 02/2017-Central Tax (Rate), dated 28.06.2017

8.9 Regarding the order of AAAR, Uttarakhand, it is pertinent to mention that Section 103(1) of the CGST Act deals with the applicability of advance ruling and reads as:-

"(1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only -

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant."



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(3) Regarding its taxability on the basis of its industrial usage (like cattle feed, etc) no document has been submitted before this authority so as to reach any conclusion. Therefore, no findings are given on this issue.

Chandra Prakash Goyal
(Member)

Chhattisgarh Appellate Authority

Rajat Bansal
(Member)

Chhattisgarh Appellate Authority



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Dated, 24/04/2024

Copy to :-

- (1) The appellant.
- (2) The AAR, Chhattisgarh
- (3) The Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
- (4) The Commissioner of State Tax, Chhattisgarh.
- (5) Office copy.

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MEMBER
APPELLATE AUTHORITY FOR
ADVANCE RULING CHHATTISGARH