



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Sri. K.Ravi Sankar, Commissioner of State Tax (Member)
2. Sri. R V Pradhamesh Bhanu, Joint Commissioner of Central Tax (Member)

AAR No. 03 /AP/GST/2023 dated: 31.03.2023

1	Name and address of the applicant	M/s. Seetharamnjaneya Dal and Fried Gram Mill
2	GSTIN	37ABBFS5544B1ZD
3	Date of filing of Form GST ARA-01	11.08.2022
4	Personal Hearing	11.01.2023
5	Represented by	Ramaraju Srinivasa Rao, Advocate
6	Jurisdictional Authority - State	Special Circle-GNT, Guntur-II Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(b) applicability of a notification issued under the provisions of the Act (e) determination of the liability to pay tax on any goods or services or both;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. 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 APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Seetharamnjaneya Dal and Fried Gram Mill (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

- 3.1** M/s Seetharamnjaneya dal and fried gram mill (hereinafter referred to as "applicant") is engaged in the business pulses and dalls. Applicant has facility in his mill to convert pulses into dalls. Applicant is having GST Registration number 37ABBF55544B1ZD.
- 3.2** The applicant submits that 'The Andhra Pradesh State Civil Supplies Corporation Limited', Vijayawada is a state government undertaking engaged in the business of supplying essential commodities to the fair price shops for public distribution.
- 3.3** The corporation invited tenders for supply of 25,000 MTs red gram dall,(Fatka) variety in 1 kg packet form with secondary packaging in 50 kg PP bags to all the MLS points of APSCSCL in (13) districts across the Andhra Pradesh State for distribution under PDS and various schemes through AP e-procurement auction platform.
- 3.4** The applicant is a successful bidder and supplying the red gram dall to the corporation adhering to the guidelines issued by the corporation regarding packing and printing of label on the packing, which are given as under:
- (a) The successful bidder has to supply the allotted quantity with good quality of red gram dall to the designated MLS points of APSCSCL.
 - (b) The successful bidder should supply the stock of redgram dall as per the terms and conditions. It has to be packed in 70 to 75 microns laminated film with reverse printed multi colour film material. The approximate size of pouch may be 7 inches X 9 inches. The supplier shall pack 50 packets of such one Kilogram red gram dal in new 50 Kg HDPE woven sack bag duly machine stitched. The text of the matter to be printed on the one Kg pouch shall be provided by the APSCSCL. The woven sack bag shall have the following matter printed in black colour.

GOVERNMENT OF ANDHRA PRADESH
SUPPLIER CODE/userid..... batch
No.....
DATE OF PACKING:
TO BE STORED IN DRY PLACE:

(c) Packing should be in at least one side transparent polythene pack where in the commodity should be visible.

(d) While supplying the redgram dal commodity in pouches in date of packing, batch number, date of expiry should be printed on the pouch. Without the above details the stocks dispatched by the suppliers will not be accepted at the MLS points of APSCSCL. Any deviation will be viewed seriously and severe action will be initiated against default suppliers.

4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

1. Whether the supply of 1kg packing red gram dall secondary packing in 50 kg bag to the AP State Civil Supplies Corporation Limited, Vijayawada as per the design and label given by the corporation with a prior agreement attracts GST.

On Verification of basic information of the applicant, it is observed that the applicant is under state jurisdiction i.e, Special Circle GNT Circle, Guntur -II Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the State jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Applicant's Interpretation of Law:

5.1 The applicant submits that Notification No.6 and 7 of 2022-CTR dated 13.7.2022 enumerates that "GST is applicable on 'pre-packaged and labelled' commodities as per the provisions of the Legal Metrology Act w.e.f 18.07.2022".

5.2 Applicant further submits that "Pre-packaged commodity" means 'a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity.'

5.3 The applicant submits that in their case the purchaser is very well known and the packing and labeling is made as per the directions of the purchaser i.e. Corporation.

6. Personal Hearing:

The proceedings of Personal Hearing were conducted on 11.01.2023, for which the authorized representative, Ramaraju Srinivasa Rao, Advocate attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application in light of the facts and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for Advance Ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

The applicant states that, they supplying the red gram dall to the corporation in 1 kg packaging and secondary packaging in 50 kg bag .The packaging and labelling is done as per the directions issued by corporation. The applicant wants to know whether the supply of 1kg packing red gram dall and secondary packing in 50 kg bag to the AP State Civil Supplies Corporation Limited, Vijayawada as per the design and label given by the corporation with a prior agreement attracts GST or not.

Now we discuss to know whether the supply of 1kg packing red gram dall and secondary packing in 50 kg bag to the AP State Civil Supplies Corporation Limited, Vijayawada as per the design and label given by the corporation with a prior agreement attracts GST or not. We invite reference to the Notification no 06/2022 (CT Rate),dated 18th July 2022 wherein, GST has been made applicable on supply of "pre-packaged and labelled" commodities attracting provisions of Legal Metrology Act, 2009.

The expression "pre packaged and labelled" means a "pre packaged commodity" as defined in clause (I) of Section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act 2009 (1 of 2010) and the rules made thereunder.

Thus, supply of such specified commodity having the following two attributes would attract GST:

- (i) It is pre-packaged; and
- (ii) It is labelled which means that it is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.

The word 'Pre-packaged' is defined in the legal Metrology Act, 2009 vide Sec 2(1)(I) of the Legal Metrology Act 2009 as, pre-packaged commodity means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre determined quantity.

Thus the condition of pre-packaged involves the cumulative satisfaction of the following conditions.

- 1) Without the purchaser being present.
- 2) Commodity is placed in a package.
- 3) Product contained shall have a pre-determine quantity

While the commodity being placed in a package with a pre-determined quantity means that the commodity is packaged the attribute 'pre' had a specific connotation which means that is packaged not for any specific buyer but is packed in general for any buyer who may purchase it later. Thus any packaging made as per the specific request and at the behest of a specific buyer is not a 'pre-packaged' but is only packaged.

Another condition is that the commodity shall be labelled which by the definition supra means a label securely affixed **thereto is required to bear the declarations under the Provisions of the Legal Metrology Act 2009** (1 of 2010) and the rules made thereunder. As per legal Metrology Act 2009 various conditions under which the declaration are mandated or exempted are provided.

- A) As per rule 3(a) no such declarations are required if the pack contained a quantity of 25 Kgs or 25 litres
- B) As per rule 3(B) supply of packaged commodity for consumption by industrial consumer or institutional consumer is excluded from the purview of the Legal Metrology Act.

In the instant case, the applicant is supplying red gram dal to the corporation in 1 kg packaging and secondary packaging in 50 kg bag. It is also contended by the applicant that AP State Civil Supplies Corporation Limited being an institution which supplies essential commodities under public distribution system, the above supply is not an 'Institutional supply' and is not exempted by rule 3(B).

The questions whether the primary pack of less than 25 Kgs, but are secondary packed in a pack above 25 kgs are covered by Legal Metrology Act or Not? Or whether the supply to AP Civil supplies is Institutional supply or Not are to be decided in the backdrop of the provision of Legal Metrology Act, but not under GST.

Be that it may, the first and foremost condition of taxability is that the commodity should have been a pre-packed commodity which means that the commodity is not packed for any specific known buyer. In the Instance case the applicant is packing the commodity at the behest and at the specific instructions of the buyer, i.e., AP State Civil Supplies Corporation Limited. It is clearly evident from the package that the AP State civil have made very clear instruction as to the color, theme, transparency and the details to be printed on the package. Thus the commodity is packed for retail sale for any buyer who may purchase at a later point, but it is packaged to a specific buyer. Thus the first and foremost condition of taxability is not satisfied. Hence there is no question of taxability of the commodity in the instant case. In view of this the discussion as primary / secondary packaging or Institutional supply is nothing but infructuous.

In view of the foregoing, we pass the following

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question Whether the supply of 1kg packing red gram dall secondary packing in 50 kg bag to the AP State Civil Supplies Corporation Limited, Vijayawada as per the design and label given by the corporation with a prior agreement attracts GST.

Answer Negative.

Sd/-K.Ravi Sankar
Member

Sd/-RV Pradhamesh Bhanu
Member

//t.c.f.b.o//


Deputy Commissioner (ST)

Registrar
Authority for Advance Ruling
O/o. Chief Commissioner (State Tax)
Andhra Pradesh, Vijayawada.

To

M/s Seetharamnjaneya Dal and Fried Gram, D.No. 216/2 Narasaraopet Road, Vittamrajupalli, Vinukonda, Palnadu District, A.P.,-522647

(By Registered Post)

Copy to

1. The Assistant Commissioner of State Tax, Special Circle-GNT, Guntur-II Division. **(By Registered Post)**
2. The Superintendent, Central Tax, CGST Ibrahimpatnam Range, Amaravathi Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.