

WEST BENGAL AUTHORITY FOR ADVANCE RULING  
GOODS AND SERVICES TAX  
14 Beliaghata Road, Kolkata – 700015  
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

BENCH

Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX  
Mr Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	SREE KRISHNA RICE MILL
Address	NAISARAI, ARAMBAGH, HOOGHLY, WEST BENGAL-712602
GSTIN	19AAKFS6333G1ZX
Case Number	05 of 2021
ARN	AD190321015456B
Date of application	April 08, 2021
Order number and date	04/WBAAR/2021-22 dated 30.07.2021
Applicant's representative heard	Mr Ardhendu Hati, Authorised Representative

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 Sree Krishna Rice Mill (hereinafter referred to as, the applicant) is stated to be entered into agreements with State Government agencies for custom milling of paddy i.e., production of rice on job work. In the execution of custom milling, the applicant has to collect/procure paddy from

paddy storage centers (commonly known as, Mandi) and thereafter transport it to the applicant's milling site. After milling of rice from the said procured paddy, the applicant delivers such milled rice from their milling site to the various delivery centers.

1.3 According to the applicant, milling charges and usage charges for packing of rice is a taxable supply which is leviable to tax @ 5% (CGST @ 2.5% and SGST @ 2.5%). However, on the issue of services of transportation of paddy/rice, the applicant is of the opinion that the transportation charges in relation to paddy/rice are exempted from payment of tax under entry serial number 21 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 being services provided by a goods transport agency by way of transport in a goods carriage of agricultural produce. The applicant further expressed his view that labour charges on procurement of paddy are not leviable to tax under the GST Act.

1.4 Based on the aforesaid nature of supply being undertaken by him, the applicant has made this application under sub-section (1) of section 97 of the GST Act and the rules made there under raising following question vide serial number 14 of the application in FORM GST ARA-01:  
(i) Whether transportation of raw paddy from the point of purchase to the rice mill is taxable or not;  
(ii) Whether the reimbursement of Mandi labour charges are taxable or not;

1.5 The aforesaid question on which the advance ruling is sought for is found to be covered under clause (e) of sub-section (2) of section 97 of the GST Act.

1.6 The applicant states that the question raised in the Application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.7 The officer concerned from the Revenue has raised no objection to the admission of the Application.

1.8 The Application is, therefore, admitted.

## 2. Submission of the applicant

2.1 The applicant submits that he has entered into agreements for custom milling of paddy with the State Government agencies where the applicant provides following supply on behalf of the government agencies:

- (a) Labour services for procurement of paddy at Government Mandi.
- (b) Transportation services for bringing paddy from Mandi to Rice Mill.
- (c) Services towards milling of paddy.
- (d) Usage charges of gunny bags for paddy.
- (e) Cost of gunny bag (new), if required.

(f) Transportation services for delivery of rice from Rice Mill to the godown designated by the Government.

2.2 The applicant further submits that the aforesaid supplies can easily be separated and rates for each element are also clearly spelt out. The supplies, therefore, could have been arranged through different parties as well since the said supplies are not interconnected at all.

2.3 The applicant has referred the clarification given in para 5 of the Trade Circular No. 20/2018 dated 17.09.2018 issued by the Commissioner, State Tax, West Bengal [Corresponding Central Circular No. 19/19/2017-GST dated 20.11.2017] in respect of taxability of custom milling of paddy which, for the sake of conveniences, is reproduced below:

*“GST rate on services by way of job work in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5% vide notification No.1795-F.T.[31/2017-State Tax (Rate)] [notification No. 1135-F.T.[11/2017-State Tax (Rate)] dated 28.06.2017, Sl.No. 26 refers]. Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).”*

2.4 The applicant, as has already been stated, is of the opinion that different types of supplies as undertaken by him and referred to in para 2.1 cannot be termed either as ‘composite supply’ or ‘mixed supply’ as defined in clause (30) and (74) of section 2 of the GST Act respectively. In support of his contention, the applicant has relied on the judgement of Hon’ble Kerala High Court in the case of Abbott Healthcare Private Limited Vs Commissioner of State Tax, Kerala & Others where the Hon’ble Court has quashed the rulings pronounced by the Kerala Authority for Advance Ruling and the Kerala Appellate Authority for Advance Ruling and remanded the matter back to the AAR for a fresh decision on the query raised before it by the petitioner company. The Hon’ble Court has observed as follows:

*“.....there is also no material to suggest that they are so bundled and supplied in conjunction with each other in "the ordinary course of business". In fact, the business model followed by the petitioner appears to have held the field for a considerable period of time and would show that in the ordinary course of business, the supplies are not bundled.”*

2.5 In course of personal hearing, the authorised representative of the applicant has referred to para 3.1 and 3.2 of the Circular No. 153/09/2021-GST dated 17.06.2021 issued by the Ministry of Finance, Department of Revenue, Government of India [Corresponding Trade Circular No. 13/2021 dated 30.06.2021 issued by the Commissioner, state Tax, West Bengal] wherein GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS has been clarified as under:

*3.1 Public Distribution specifically figures at entry 28 of the 11th Schedule to the constitution, which lists the activities that may be entrusted to a Panchayat under Article 243G of the Constitution. Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied in such composite supply (goods used for fortification, packing*

*material etc) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis.*

*3.2 In case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 for the reason that value of goods supply in such a composite supply exceeds 25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service (entry No. 26 of notification No. 11/2017- Central Tax (Rate) dated 28.06.2017). Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.*

2.6 The authorised representative of the applicant submits that that the applicant enters into a Tri-Partite Agreement with the Agency selected by the Government of West Bengal for procurement of paddy and Co-operative Society/ Self Help Group Sangha or Mahasangha/ Farmer Producers Organisations/ Farmer Producers Company for the purpose of procurement of paddy, custom milling thereof and subsequent delivery of rice to the godown designated by the Government. Photocopies of some agreements are furnished in support the submission.

2.7 However, the authorised representative of the applicant, on being asked in course of personal hearing, has submitted that the applicant has been served with a notice issued by the Assistant Commissioner, State Tax, Serampore Charge and he later on has sent the copy of the said notice through e-mail.

2.8 The said notice is found to be issued on 16.03.2021 pursuant to an investigation made on 17.03.2020 and in the said notice, the Assistant Commissioner, State Tax, Serampore Charge has asked the applicant to furnish reply on certain issues which, inter alia, contains issuance of invoices for custom milling, manner of receipt of payment from the Government against custom milling, transportation of processed rice by the applicant to the Government designated godowns, manner of procurement of gunny bags (whether the same are purchased by the applicant or supplied by the Government).

### 3. Submission of the Revenue

3.1 The concerned officer from the revenue has expressed his view as under:

The transportation of paddy and rice are conditionally exempted under specific Notifications. Supplies involved in the instant case would be eligible to tax since the said supply involved in the instant case cannot be separated for the purpose of computation of tax. Thus the provision of composite supply under section 8(a) of GST Act would be applicable and the custom milling

of paddy being the principal supply (predominant supply), the same would attract GST @5% (2.5% CGST and 2.5% SGST).

#### 4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorised representatives of the applicant during the course of personal hearing. We have also considered the submission made by the officer concerned from the Revenue.

4.2 Before we discuss on the questions raised by the applicant vide the instant application, we may have a look at the modus-operandi of the business activities carried out by the applicant in respect of custom milling of rice as it appears from the copy of the agreements submitted at the stage of personal hearing.

4.3 A Tri- Partite agreement has been executed between (i) the applicant, (ii) a CMR Agency selected by the Government of West Bengal for procurement of paddy and (iii) Co-operative Society/ Self Help Group Sangha or Mahasangha/ Farmer Producers Organisations/ Farmer Producers Company. According to the said agreement:

(a) The Food & Supplies Department, Government of West Bengal appoints the CMR Agency as State Agent for procurement of paddy of Fair Average Quality (FAQ) at Minimum Support Price (MSP) and Custom Milling of rice thereof.

(b) The CMR Agency has been awarded with the right to procure paddy from the farmers at MSP either by itself or through Paddy Procuring Society.

(c) Further, the CMR Agency engages the Rice Mill (the applicant for the instant case) on terms and conditions read with the provisions of the West Bengal Custom Milled Rice (Obligation & control) Order, 2015) to carry into effect the work for conversion of paddy into CMR (parboiled/raw rice) in accordance with the specification of Government of India.

(d) The Paddy Procuring Society will procure FAQ paddy as per specifications contained in the West Bengal Custom Milled Rice (Obligation & control) Order, 2015) at MSP for common paddy directly from the farmers by opening Purchase Centres on behalf of the Agency.

(e) The Rice Mill will purchase once used gunny bags for packing of paddy at each procuring centre.

(f) The Rice Mill, after procurement of the paddy, shall be responsible to make all arrangements to receive, store it safely, temporarily and transport the paddy physically under its own arrangement from the purchase centre within 24 hours.

(g) It shall be the absolute responsibility of the Rice Mill to collect paddy from the Paddy Procuring Society, acknowledge such receipt jointly with the Paddy Procuring Society and carry out production of rice strictly in conformity with the quality specifications prescribed by the Government of India and Government of West Bengal as per prescribed extraction ratio of parboiled common rice and raw rice respectively.

(h) The Rice Mill shall arrange for delivery of CMR at the designated godown of FCI and/or Food & Supplies Department of Government of west Bengal within the stipulated period as provided in the agreement.

(i) The Rice Mill, shall arrange for obtaining of new SBT gunny bags from district Head Quarters/sub- division Head Quarters/ or any other storage point of Food Supplies Department conforming to specifications laid down in procurement guidelines of Government of India for delivery of CMR in the account of CMR Agency.

(j) The Rice Mill, shall maintain proper stock register, inventory details and books of accounts of CMR produced and delivered to State/FCI godowns.

(k) The stock register, inventory details and books of accounts as also the physical stock of paddy and CMR shall remain open for inspection at all times by any official of the CMR Agency or that of GOI/Government of West Bengal for that matter

(l) The Rice Mill shall maintain proper books of accounts of Gunny Bags e.g., receive from F&S Department, utilisation, balance stocks etc. and shall keep open for inspection at all times by any official of the CMR Agency or that of GOI/Government of West Bengal for that matter.

(m) It appears from the agreement that submission of bill by the applicant requires a number of documents which, inter alia, contains original paddy transportation challan, original of receipt of Mandi Labour Charges paid (Showing break-up of activity-wise details), copy of receipt of Milling Charges paid duly countersigned by Paddy Procuring Society etc.

4.4 We now come to the questions on which the instant advance ruling has been sought for. The applicant seeks to know in respect of taxability on transportation charges of raw paddy from the point of purchase to the rice mill and also on the reimbursement of Mandi labour charges.

4.5 We find that the aforesaid questions is entirely related to custom milling of paddy being undertaken by the applicant and an investigation proceedings is already pending on the business activities being carried out by the applicant as a custom miller of paddy.

4.6 The first proviso to sub-section (2) of section 98 of the GST Act speaks that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.

4.7 The applicant has made the instant application in FORM GST ARA-01 on the common portal on 31.03.2021 and has declared vide serial number 17 of the said application that the questions raised in the application is not pending nor decided in any proceedings in his case under any of the provisions of this Act.

4.8 But we find that the applicant has been served with a notice dated 16.03.2021 in connection to a proceedings under the provisions of the GST Act and the questions raised in the instant application are related to the said proceedings.

In view of the above discussions, we rule as under:

#### RULING

No ruling is given for the instant case since the questions raised in the instant application is a subject matter which is found to be pending in case of the applicant under the provisions of the GST Act.

(SUSMITA BHATTACHARYA)

Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)

Member

West Bengal Authority for Advance Ruling