

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**  
**DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX**  
**5<sup>TH</sup> 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. Shri B. Senthilvelavan, 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,  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6.

**ORDER No. 07 /ARA/2020 Dated: 24.03.2021**

GSTIN Number, if any / User id	33ABBFA8029R1Z4
Legal Name of Applicant	ARUN COOLING HOME
Trade Name of the Applicant	ARUN COOLING HOME
Registered Address / Address provided while obtaining user id	50/1, Natham Main Road, Kadavur Village, Chathrapatti, Madurai-625014
Details of Application	Form GST ARA - 001 Application Sl.No. 07/2020 dated 27.02.2020
Concerned Officer	Centre: Madurai Commissionerate State: Assistant Commissioner, Chokkikulam Assessment Circle, Madurai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for	
A Category	Service Provision.
B Description (in brief)	The applicant is engaged in cold storage of agricultural produce like Tamarind.
Issue/s on which advance ruling required	Applicability of Notification issued under the provisions of this act.
Question(s) on which advance ruling is required	Whether the service of cold storage of tamarind inner pulp without shell and seeds are exempted under the purview of the definition of Agricultural produce vide Notification No.11/2017 and 12/2017 Central Tax(Rate) both dated 28.06.2017.

**Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against 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.**

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ARUN COOLING HOME, Natham Main Road, Kadavur Village, Chathrapatti, Madurai-625014 (hereinafter called the 'Applicant') is registered under the GST Vide GSTIN 33ABBFA8029R1Z4. The applicant is dealing with the service of cold storage They have sought Advance Ruling on the following question:

Whether the service of cold storage of tamaring inner pulp without shell and seeds are exempted under the purview of the definition of Agricultural produce vide Notification No. 11/2017- C.T.(Rate) and 12/2017- C.T.(Rate) both dated 28/06/2017.

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that their service is covered under Notification No.11/2017-Central Tax(Rate) dated 28.06.2017 under Sl.No.24(e) Loading unloading packing storage or warehousing of agricultural produce (Heading SAC 9986). Entry no.54 of Notification No.12/2017-CT(Rate) dated 28.06.2017 exempts services relating to cultivation of plants and rearing of all life forms of animals except the rearing of horses, for food, fibre, raw material or other similar products or agricultural produce by way of ( e) loading, unloading packing storage or warehousing of agricultural produce.

2.2 On the Interpretation of Law the applicant has stated the term 'Agricultural Produce' 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 primary market. They have stated that the tamarind is primarily produced or cultivated by small farmers who remove the shell or the upper part and bring the inner part (which is the consumable part of Tamarind) for sale. The Tamarind may or may not come for storage with seeds. They have submitted that incase of tamarind, the pod is cracked open, string(fibre) is removed and kernel is taken out. Thus, the resultant tamarind comes under definition of agricultural produce. The shelling and removal of seeds to obtain the pulp is usually done by the farmers. Hence, the inner pulp without shell and/or seeds comes under the purview of definition of "Agricultural produce" as it does not lose its essential characteristics. Hence, the applicant has stated that the services of storage or warehousing of such produce is exempted under the Notifications 11/2017 & 12/2017 CT(Rate) dated 28.06.2017.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 10.12.2020. The authorized representative appeared for the hearing virtually. He stated that there is a confusion in the eligibility of the Sl.No.54 of Notification 12/2017 as the ruling of ARA of Andhra Pradesh and Rajasthan are different. The applicant was asked whether the tamarind stored by them is the one stored by farmers. The applicant was asked to furnish the following details:

- i. Copies of the rulings of ARAs relied upon
- ii. Copy of invoices raised for the supply
- iii. Copy of license held by the applicant to undertake such storage under relevant laws
- iv. List of major service receivers/ class of receivers
- v. Photograph of raw tamarind freshly cultivated and then stored in their facility.

3.2. The applicant submitted the following documents vide their letter dated 18.12.2020

- Copies of rulings of ARAs of Andhra Pradesh and Rajasthan in the case of M/s. S S S V K Cold Storage Pvt Ltd and Sardar Mal Cold Storage & Ice Factory respectively
- Copies of invoices raised by them(Random)
- Copy of the FSSAI license
- List of major service receivers under the class of receivers-Traders/Farmers with the details of commodity.
- Photograph of freshly cultivated tamarind and tamarind stored in their storage unit alongwith Photographs of removal of seed from shell
- Video CD for process of tamarind
- Affidavit of Shri. K.A.T. Karthikeyan, trader; L.G. Paul Pandian, Trader; M.R.Kannan, Trader A.Mayil Rajan, trader of tamarind
- Oath of Allegiance of Shri R.Sivamurthi;Shri K.Nandakumar, R.Ramar cultivators of tamarind trees in their land

3.3 They had further stated inter-alia, that:

- The rate of tax for the sale of tamarind is NIL
- Theirs is Pure Service. They are dealing with the service of cold storage of agricultural produce like Apple, dates, potato, chillies and Tamarind
- They are collecting GST & paying GST on the cold storage service on dates
- They are not collecting and not paying tax on tamarind
- They came to know that there are two advance rulings on cold storage service of tamarind:
  - One is Rajasthan Advance Ruling No. RAJ/AAR/2018-19 dated 11/06/2018 wherein it is ruled that the processing of tamarind had to undergo a specially designed machinery process and therefore this service is taxable
  - Andhra Pradesh Advance Ruling No. AAR/AP/02(GST)/2018 dated 28/03/2018 wherein it is ruled that the cold storage service of agriculture produces such as chillies, whole pulses, Apples, potato, raw cashew nuts, oil seeds, maize, tamarind, millets, cattle feed, food grains etc., is exempted from tax under GST and exemption shall cover both traders and farmers

- The process of removal of shells and seeds are only done by manually as the tamarind has stickiness even after drying in sunlight. Due to the stickiness of tamarind, the process through machinery is not possible.
- The tamarind are primarily produced or cultivated by small farmers who remove the shell or the upper part and bring the inner part for sale. The tamarind may or may not come for storage with seeds.
- The inner pulp without shell and/or seeds come under the purview of the definition of 'Agricultural produce' as it does not lose its essential characteristics

They requested for clarification.

4. The central jurisdictional authority reported that there are no pending proceedings in the applicant's case on the issues raised by the applicant in the ARA application in their jurisdiction.

5. The state jurisdictional authority who has the administrative control over the applicant has stated that the tamarind is primarily cultivated by farmers, who remove the shell and bring the inner part for sale; Tamarind comes under the definition of agricultural product; After removing of shell, Seed and fibre the tamarind does not lose its essential characteristics and have submitted that Service of cold storage of tamarind (without shell seed and fibre) is exempted service as per notification 11/2017 & 12/2017 CT(Rate) dated 28.06.2017.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral submissions made at the time of Virtual hearing, written submissions made thereafter and the comments of the Jurisdictional Authorities. The applicant has sought ruling on the following question:

Whether the service of cold storage of tamarind inner pulp without shell and seeds are exempted under the purview of the definition of Agricultural produce vide Notification No.11/2017 and 12/2017 Central Tax(Rate) both dated 28.06.2017.

The ruling sought for is on the applicability of the above Notification. As per Section 97 (2), the question raised is within the ambit of this authority and the application is accordingly admitted.

7.1 The facts of the case as available on the records before us, are that the applicant is engaged in providing services of cold storage for apple, dates, potato, chillies, tamarind etc. They are licensed under FSSAI to carry out the business of Trade/Retail -Storage (Cold/Refrigerated) They are providing the cold storage services to Traders in respect of Dates, Chillies, Tamarind, Horse Gram, Wheat, Coriander, Apple, Potato, Food Grains and to Farmers in respect of Tamarind, Mochai, Pulses as seen from the List of Major service receivers furnished by them. From the document of oath of allegiance furnished it is seen that the said cultivators, Shri R.Sivamurthi; Shri K.Nandakumar; Shri. R.Ramar own the land in which tamarind grove is cultivated and maintained by them; the process of collecting the fruit of tamarind from the tree, removal of shell and seeds are done manually using hammers as a 'Cottage Industry' relying only on 'Human Resources' and no machineries are deployed; The tamarind after removal of the shell and seed only becomes marketable; The essential characteristics of this tamarind remains the same when sold to wholesale/retail traders and in the hands of consumers for use in the kitchen. The applicant has made references to the Advance Rulings issued by the following AARs

- Rajasthan ARA in the case of Sardar Mal Cold Storage & Ice Factory Order No.RAJ/AAR/2018-19 dated 11.06.2018- wherein the authority has held that 'Tamarind when harvested from tree consists of brittle outer shell which encapsulates the pulp and enclosed seed which in turn are sold by farmer in the Primary Market. Shelling and removal of seeds to obtain the pulp is usually done by specially designed machines. Hence inner pulp without shell and seeds do not fall under the definition of 'Agricultural produce'. This finding stands upheld by the Appellate Authority.
- Andhra Pradesh ARA M/s SSSVK Cold Storage Pvt ltd Order No.AAR/AP/02(GST)/2018 dated 23.08.2018 – wherein the ruling was sought on whether the storage of Agriculture produce falls under SAC 998619 or 996721 or some other SAC & the applicable rate of tax . The authority has found that the activity falls under SAC 9986 and has ruled that as long as the commodities fall under the purview and ambit of 'agricultural produce' as referred in the notification read with the explanation in the circular referred attracts 'Nil' rate of tax and that the entry is service specific and not person specific

7.2 They have submitted that the tamarind is primarily produced or cultivated by small farmers who remove the shell or the upper part and bring the inner part (which is the consumable part) for sale. The tamarind may or may not come for cold storage with seeds. The applicant's contention is that in tamarind the pod is cracked open, string(fibre) is removed and kernel is taken out. Thus, the Shelling and removal of seeds to obtain the pulp without shell and/ or seeds will come under the purview of definition of 'Agricultural Produce' as it does not lose its essential characteristics. Hence, the Service of cold storage provided by them are exempted under Notification 11/2017 & 12/2017 CT(Rate) dated 28.06.2017. They have stated that they are collecting GST on cold storage services for storage of dates and that they are not collecting and paying GST for Cold storage services on tamarind, considering the same as 'agricultural produce'. They claim that their services are as per Sl.No. 24 ( e) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 and exempted vide Sl.No. 54 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017.

7.3 The relevant extracts of Notification 11/2017 & 12/2017 CT(Rate) dated 28.06.2017 are given below for ease of reference:

**Notification 11/2017 CT(Rate):**

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
24	9986	(i) Support services to agriculture, forestry, fishing, animal husbandry. Explanation. - "Support services to agriculture, forestry, fishing, animal husbandry" mean - 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) .... (b) .....  (e) loading, unloading, packing, storage or warehousing of agricultural produce;	Nil	-

**Notification 12/2017 CT(Rate):**

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
54	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).... (b).... (e) loading, unloading, packing, storage or warehousing of agricultural produce;	NIL	

'Agricultural Produce' is defined under explanation 2(d) of Notification No.12/2017-CT(Rate) as under:

2(d) "agricultural produce" 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 primary market;

Circular No. 16/16/2017-GST dated 15<sup>th</sup> November 2017, clarifies the applicability of GST on warehousing of agricultural produce, wherein it is stated as under:

*Issue: Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?*

*Clarification:*

1. As per GST notification No. 11/2017-Central Tax (Rate), S.No. 24 and notification No. 12/2017- Central Tax (Rate), S.No. 54, dated 28th June 2017, the GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil.

2. Agricultural produce in the notification has been defined to mean "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 primary market”*

*3. Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same.*

*4. Thus, green tea leaves and not tea is the “agricultural produce” eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.*

*5. Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.*

*6. Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.*

*7. In view of the above, it is hereby clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce given in notification No. 11/2017-CT(Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant*

7.4 From the above the following are evident:

- Support service to agriculture mean ‘Services relating to agricultural produce by way of -loading, unloading, packing, storage or warehousing of agricultural produce’ ;

- 'agricultural produce' is any produce out of cultivation of plants on which either no further processing is done or such processing is done as is usually done by a cultivator which does not alter its essential characteristics but makes it marketable for primary market.
- The process done should be usually of one being carried out by the farmers at farm level
- Processed spices fall outside the definition of agricultural produce.

Thus the following ingredients are to be satisfied to be eligible for the exemption at Sl.No. 54 of Notification No. 12/2017-C.T.(Rate) above :

- The storage service is to be provided to 'agricultural produce'
- 'Agricultural produce' is that
  - produced out of cultivation of plant;
  - on which a process if any is done, would be that carried out by the farmer at farm level to make it marketable for primary market.

7.5 In the case at hand, it is seen from the affidavits of the 'Traders' and the oath of allegiance of the 'Cultivators' that the process of removing the shell and seeds are undertaken as a 'Cottage Industry' with the 'Human Resource' as a main resource and wooden stick, wooden/iron hammer as equipment. The video CD furnished by the applicant shows the tamarind fruit being sun dried, beaten to remove the shell and take the pulp, then hammered to remove seeds. The photographs furnished shows tamarind with Pod; Tamarind with seed and fibre; tamarind without seed. The product for which the cold storage service is provided by the applicant is the deshelled, destringed & deseeded tamarind. The applicant in their submissions has further stated that the rate of tax for sale of 'Tamarind' is 'NIL, which is not True. We see that, as per Sl.No. 33A of Schedule-I to Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 as amended, 'Tamarind, dried' falling under the HSN '0813' is taxable to 5% while only 'fresh tamarind' falling under HSN 0810 is exempted vide Sl.No.57 of Notification No. 02/2017-C.T.(Rate) dated 28.06.2017 as amended. As per the HSN Explanatory Notes, 'tamarind pods, unprocessed tamarind pulp with or without seeds, strings or pieces of the endocarp' are covered under CTH 0813, when prepared either by direct drying in the sun or by industrial processes. In the present case, the product stored is processed by drying the same in the sun and then by beating with wooden sticks to


remove the pod and hammered to deseed and destring for extraction of the endocarp/pulp of the Tamarind. This process is not done at farm level. It is done as a 'Cottage Industry' as furnished in the affidavits of the Traders and the Oath of allegiance of the Farmers to whom the storage services are extended by the applicant. Therefore, as clarified in the Circular above, the Tamarind which is processed by sun drying, deshelling, deseeding, the process which are not farm level processes, is not an 'Agricultural Produce' as defined under explanation 2(d) of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017. Once the product for which the storage services are extended is held to be not an 'agricultural produce', then the exemption at Sl.No. 54 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 is not available to the product, irrespective of the class of receivers of the service.

7.6 The Advance Ruling is specific to the applicant only. However, on perusal of the Ruling furnished by the Andhra Pradesh Authority, it is seen that the said authority has ruled that the exemption under entry No.54( e) is applicable to both farmer as well as trader as long as the commodities fall under the purview and ambit of 'agricultural produce' as referred in the Notification read with the explanation in the circular referred. The Rajasthan Appellate Authority for Advance Ruling has found that the inner pulp without shell and/or seeds do not fall under the definition of 'Agricultural produce' and therefore there appears to be no contradiction in the rulings.

8. In view of the above, we rule as under:

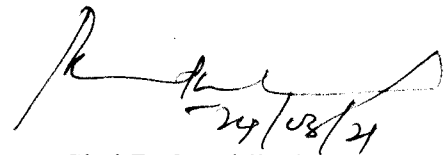
#### **RULING**

The Tamarind inner pulp without shell and seeds is not an 'Agricultural produce' as defined under explanation 2(d) of the Notification No. 12/2017- C.T.(Rate) dated 28.06.2017 and therefore the service of cold storage of such tamarind are not exempted under Sl.No. 54 (e) of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017.



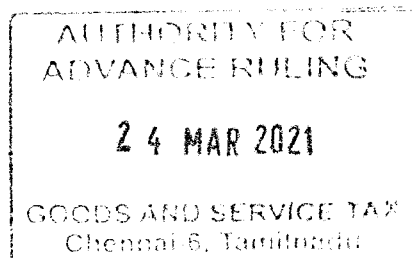
24.03.2021

Shri Kurinji Selvaan  
(Member SGST)



24/03/21

Shri B. Senthilvelavan  
(Member CGST)



To

Arun Cooling Home //By RPAD /E-Mail: d.k.eeswaran@gmail.com//  
Natham Main Road, Kadavur Village,  
Chathrapatti, Madurai-625014

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:

3. The Commissioner of GST & Central Excise, Madurai Commissionerate,  
Central Revenue Building, No 4, Lal Bahadur Shastri Road, Bibikulam,  
Madurai 625002.

4. The Assistant Commissioner (ST), Chokkikulam Assessment circle,  
Commercial Taxes Building, Dr. SVKS Thangaraj Salai, Madurai 625020.

5. Master File/ Spare-2