

AUTHORITY FOR ADVANCE RULING - KERALA
Tax Tower, Killippalam, Karamana P. O, Thiruvananthapuram - 695 002
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PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/s.98 OF THE GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Senthil Nathan S, IRS
Joint Commissioner,
Office of the Commissioner of Central Tax & Central Excise, Thiruvananthapuram.

2. N. Thulaseedharan Pillai.
Joint Commissioner (General),
Office of the Commissioner of State Taxes, Thiruvananthapuram

Sub:- GST Act, 2017 - Advance Ruling U/s 98 - rate of tax of standing rubber trees -
Orders issued.

Read:-Application dated 23.02.2018 from Sri. N.C. Varghese, Thrissur

ORDER No. CT/3270/18-C3 DATED 26/03/2018

1. Sri.N.C. Varghese, Thrissur, a small scale contractor (hereinafter called the applicant), has preferred an application for Advance Ruling on the rate of tax of standing rubber trees. The applicant is engaged in the purchase and cutting and removal of rubber trees from the plantations of certain public sector undertakings owned by the Government of Kerala and also from private individuals in Kerala.

2: The applicant has submitted that he had participated in the e-auction for cutting 6696 standing rubber trees from the State Farming Corporation Ltd., Vettithitta, a PSU under Central Govt. The applicant contends that the tax liability of timber and firewood/fuel wood is explained under HSN code 4401 and there is no direction to collect GST for standing trees of rubber trees which fall under HSN code 06. But, the State Farming Corporation is demanding 18% on live rubber trees. The tax liability of GST coming to effect only when the standing trees are cut down and separated into timber/wood and fuel wood/fire wood as the case may be.

3. The applicant further contends that the rubber trees are soft wood and cannot be used for construction purposes. It is generally used for the manufacture of packing cases and plywood substitutes, etc. after necessary processing.

4. The applicant further argued that in the VAT period, since rubber wood is not useful for construction purposes, the Government of Kerala exempted the rubber trees/rubber wood from the purview of tax in order to give relief to the growers.

5. The applicant, in his application dated 23-02-2018, has raised the following questions to be determined by the Authority for Advance Ruling.

“(1) Live rubber trees under HSN code 06 the rate of tax 0 but now insisting for payment of 18% GST which according to the auction there is no clarification issued by the GST Authorities as on date in spite of letter dtd.19-12-2017 hence as per the W.A.No.245/2018 of Hon’ble High Court for clarifying the GST rates.

(2) Both taxable rate of CGST and SGST for Standing Rubber Trees and Firewood.”

6. The authorised representative of the applicant was heard in the matter and the contentions raised were examined.

7. As per the terms and conditions in the e-tender of State Farming Corporation, the contractor should **cut** and remove the trees from the estate. Further, no other trees or fuel wood in the estate are allowed to be cut down or removed. As per the definition of goods in Section 2(52) of CGST Act, 2017, “goods” means 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. In this case, under the contract of supply, growing crops - i.e., rubber trees are agreed to be severed before supply and hence, comes under the definition of ‘goods’. Thus, standing rubber trees no longer remain as such. Therefore, it can only be treated as ‘wood in rough form’.

8. In GST, firewood is exempted as per HSN Code 4401. There is no differentiation between soft wood and hardwood in GST.

9. In the light of the aforesaid circumstances, we rule as under.

RULING

It is hereby clarified that rate of tax on rubber wood in the aforesaid transaction is 18% under the HSN 4403.


Senthil Nathan S IRS
Member, CGST


N. Thulaseedharan Pillai
Member, SGST

To

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