

 सत्यमेव जयते	<b>RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX</b>  <b>KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR – 302005 (RAJASTHAN)</b>	
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**ADVANCE RULING NO. RAJ/AAR/2019-20/29**

J.P.Meena Additional Commissioner	:	Member (Central Tax)	
Hemant Jain Joint Commissioner	:	Member (State Tax)	
Name and address of the applicant	:	Mrs. Manju Devi, (M/s M.D. Enterprises), CC-29, Hill View Garden, Trehan, Village-Thada, Bhiwadi, District- Alwar, Rajasthan 301019	
GSTIN of the applicant	:	URD	
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 this act;	
Date of Personal Hearing	:	10.12.2019	
Present for the applicant	:	Shri Sanjeev Malhotra, C.A. (Authorised Representative)	
Date of Ruling	:	18.12.2019	

**Note:** Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.



- At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".
- The issue raised by Mrs Manju Devi,(M/s M.D. Enterprises),CC-29, Hill View Garden, Trehan, Village-Thada, Bhiwadi, District- Alwar, Rajasthan 301019 (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (b)given as under: -
  - b. Applicability of a notification issued under the provisions of this act;
- Further, the applicant has not registered in GST (as per the declaration given by him in Form ARA-01), the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

1. **SUBMISSION AND INTERPRETATION OF THE APPLICANT:**

- The applicant is a sole proprietor of M/S M. D. Enterprises. The total turnover of the applicant for the financial year 2018-19 was INR 17.75 Lacs. The applicant is unregistered under the provisions of CGST Act, 2017 as on date due to the fact of turnover being less than threshold limit for registration.
- The applicant is in the business of supply of manpower falling under SAC no. 99851. During the FY 2019-20, the applicant supplied labour to one of his clients for the purpose of working in



agriculture farms. The supply of farm labour falls under SAC 9986. The recipient of service of supply of farm labour is the sole owner of agriculture Land having Khasara No. 107/20, 107/21 & 122 having Area-4-16, 4-16 & 2-8 Bighas respectively at Village-Dera Mandi, Tehsil- Mehrauli, Distt.- Delhi (South). Besides, the recipient is the owner of few immovable properties, which are used for renting purposes.

- As the service of supply of farm labour is exempted vide notification no. 12/2017 Central Tax (rates) date 28/06/2017 and notification no. 9/2017 Integrated tax (rate) dated 28/06/2017. I confirm that no tax has been charged on the transaction of supply of labour as at point 4.
- In support of the claim of above exemption, the applicant has procured following documents from the service recipient.
  - (a) Copy of Khasara/ Girdawari for the Year 2018-19 confirming that above mentioned Land is agricultural not for commercial activities.
  - (b) Purchase Bill of Seeds, Deshi-Khad & other Fertilizers are attached for the F/Year 2017- 18 to 2019-20 (up to July, 2019).
- The exemption entry 54 as appearing in notification 12/2017 Central Tax (rate) dated 28/06/2017 and notification no. 9/2017 Integrated tax (rate) dated 28/06/2017 reads as under:

*Heading 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) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(b) supply of farm labour;

- The term " agriculturist" has been defined in section 2(7) of, Central GST Act, 2017 as under:

"agriculturist" means an individual or a Hindu Undivided Family who undertakes cultivation of land—

(a) by own labour, or

(b) by the labour of family, or

(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

- The term " Support Services to agriculture" has been defined as Explanation to Entry 24 Heading 9986 in notification no. 11/2017 Central Tax (rate) dated 28/06/2017.

*Explanation. - "Support services to agriculture, forestry, fishing, animal husbandry" mean - (i) 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) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour.*

- The term " agricultural produce" has been defined in notification no. 12/2017 Central tax (rate) dated 28/06/2017 and notification no. 9/2017 Integrated tax (rate) dated 28/06/2017 as under:

*"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;*



- The applicant has ensured the fact that the manpower supplied by him is meant to be used as farm labour by way of taking the following farm records of recipient.

**Purchase Bill of Seeds, Deshi-Khad & other Fertilizers**

- The applicant is eligible for exemption from GST as provided in entry 54 as appearing in notification 12/2017 Central Tax (rate) dated 28/06/2017 and entry 57 as appearing in notification no. 9/2017 Integrated tax (rate) dated 28/06/2017.
- The applicant understands that for the purpose of exemption as provided vide notification no. 12/2017 central tax (rate) dated 28/06/2017 and notification no. 9/2017 Integrated tax (rate) dated 28/06/2017, the applicant has just to ensure that the manpower supplied by him is being used as farm labour and said exemption is not conditional. So it will not matter whether the recipient of such service is engaged in any other activity or not.

**2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT**

- a. Whether exemption of “Supply of Farm Labour” as provided in Notification No. 12/2017 and Notification No. 09/2017 Integrated Tax (rate) dated 28.06.2017 is available to supplier of manpower falling under SAC 99851?
- b. Is it necessary for recipient of “Supply of Farm Labour” service to be fully engaged in agriculture and not doing any other activity?
- c. What type of documents/evidence is required to be kept as a supplier of manpower for availing exemption as “Supply of Farm Labour” under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and Notification No. 09/2017 Integrated Tax (rate) dated 28.06.2017?

### 3. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 10.12.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Shri Sanjeev Malhotra C.A.(Authorised Representative) of applicant appeared for PH. During the PH, they reiterated the submissions already made in the application.They also submitted that “Power of Attorney” of him will be submitted in a day or two. No additional submissions were presented in PH. They requested for early disposal of the application.

### 4. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdictional officer (STO, State Tax, Ward-1, Circle-B, Kar Bhavan, UIT Sector-6 Bhiwadi, District-Alwar, Rajasthan 301019) has submitted his comments vide letter dated 25.11.2019 which can be summarized as under:

*आवेदक SAC-99851 (heading 9985-Support Services)-Employment Services including Personnel Search, Referral Service and labour Supply Service के तहत मैन पावर सप्लाइ का कार्य करता है। वर्ष 2018-19 में आवेदक का टर्नओवर 17.75 लाख होने के कारण आवेदक अपंजीकृत व्यवसायी है तथा आवेदन किये जाने के समय तक आवेदक का टर्नओवर Threshold Limit से कम है। व्यवसाय के क्रम में आवेदक द्वारा वर्ष 2019-20 में रोशनी पासी, गाँव- डेरामंडी, तहसील- म्हरोल्ली, जिला-दिल्ली को कृषि कार्य हेतु लेबर सप्लाइ कि है, जिसके साक्ष्य हेतु आवेदक द्वारा Service Recipient से खसरा गिरदावरी रिपोर्ट तथा खाद-बीज एवं जुताई के बिल प्राप्त कर प्रमाण के रूप में संलग्न किये गए हैं। आवेदक द्वारा यह भी बताया गया है कि Service Recipient की कुछ अचल संपत्तियां भी हैं जिनको Service Recipient द्वारा किराये पर दिया जाता है।*

*आवेदक द्वारा सप्लाइ कि गयी लेबर का उपयोग कृषि कार्य हेतु करना बताया गया है और इसके साक्ष्य के रूप में Service Recipient से खसरा गिरदावरी रिपोर्ट तथा खाद-बीज एवं जुताई के बिल प्राप्त कर प्रमाण के रूप में प्रस्तुत किये गए हैं। उक्त दस्तावेजों से यह तो ज्ञात होता है कि Service Recipient कृषि भूमि का स्वामी है जिस पर कृषि कार्य किया जा रहा है किन्तु यह प्रमाणित नहीं होता है कि सप्लायर द्वारा सप्लाइ कि गई सर्विस का प्रयोग कृषि हेतु ही किया गया है। इसके साक्ष्य के रूप में सप्लायर द्वारा,*



*Service Recipient द्वारा जारी किया गया जॉब चार्ट आवेदन के साथ संलग्न नहीं किया गया है जिससे यह साबित हो सके कि उसके द्वारा सप्लाई कि गयी लेबर का उपयोग केवल कृषि कार्य हेतु किया गया है।*

*Notification Number 12/2017 सेन्ट्रल टैक्स (दर) दिनांक 28.06.2017 कि पर्विष्ठी संख्या 54 एवं राज्य सरकार द्वारा आरजीएसटी अधिनियम 2017 के तहत जारी Notification Number Pt.1.-50 दिनांक 29.06..2017 कि पर्विष्ठी संख्या 54 के अनुसार heading 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) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour. उपर्युक्त अधिसूचना के अनुसार अधोहस्ताक्षरकर्ता का अभिमत है कि supply of farm labour कर मुक्त श्रेणी में है।*

*Notification Number 09/2017 इंटीग्रेटेड टैक्स (दर) दिनांक 29.06..2017 कि पर्विष्ठी संख्या 57 के अनुसार heading 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) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour. उपर्युक्त अधिसूचना के अनुसार अधोहस्ताक्षरकर्ता का अभिमत है कि supply of farm labour कर मुक्त श्रेणी में है।*

*Notification Number 11/2017 सेन्ट्रल टैक्स (दर) दिनांक 28.06.2017 कि पर्विष्ठी संख्या 24 एवं राज्य सरकार द्वारा आरजीएसटी अधिनियम 2017 के तहत जारी Notification Number Pt.1.-49 दिनांक 29.06..2017 कि पर्विष्ठी संख्या 24 जिसमें कि support services to agriculture को स्पष्ट किया गया है के अनुसार heading 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) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour. उपर्युक्त अधिसूचना के अनुसार अधोहस्ताक्षरकर्ता का अभिमत है कि supply of farm labour कर मुक्त श्रेणी में है।*

*RGST Act 2017/CGST Act 2017 कि धारा 2 कि उपधारा 7 के अनुसार "agriculturist" means an individual or a hindu undivided family who underatakes cultivation of land -*

*(a) by own labour, or*



- (b) by the labour of family, or  
(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

उक्त परिभाषा से अधोहस्ताक्षरकर्ता के अभिमत में service recipient कृषक कि श्रेणी में आता है। Notification Number 12/2017 सेन्ट्रल टैक्स (दर) दिनांक 28.06.2017, Notification Number 09/2017 इंटीग्रेटेड टैक्स (दर) दिनांक 29.06..2017 तथा राज्य सरकार द्वारा आरजीएसटी अधिनियम 2017 के तहत जारी Notification Number Pt.1.-50 दिनांक 29.06..2017 में agricultural produce को परिभाषित किया गया है जिसके अनुसार "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;

उपर्युक्त से अधोहस्ताक्षरकर्ता का यह अभिमत है कि सप्लायर द्वारा सप्लाई किया गया मानव श्रम जिसे पूर्णतः खेती में उपयोग लिया गया है इसके साक्ष्य हेतु आवेदन के साथ मानव श्रम के कृषि उपयोग का जॉब चार्ट भी संग्रह कर संलग्न किया जाना चाहिए। supply of farm labour कर मुक्त श्रेणी में है। अधोहस्ताक्षरकर्ता का यह भी अभिमत है कि मानव श्रम का उपयोग पूर्णतः cultivation of plants and rearing of all life forms of animals, except the rearing of horses के लिए होना चाहिए। उक्त सभी अधिसूचनाओं में इस बात का कोई उल्लेख नहीं है कि service recipient का supply of farm labour पर कर मुक्ति हेतु केवल कृषि कार्य में ही प्रवृत्त होना आवश्यक है या वह कृषि कार्य के साथ-साथ कोई अन्य व्यवसाय भी कर सकता है।

##### **5. FINDINGS, ANALYSIS & CONCLUSION:**

- The applicant is in the business of supply of manpower falling under SAC 99851. During the FY 2019-20, the applicant supplied labour to one of his clients for the purpose of working in agriculture farms. According to the submissions, the recipient of service of supply of farm labour is the sole owner of agriculture land. Besides, the recipient is the owner of few immovable properties, which are used for renting purposes.



- We find that Chapter heading 9985 is for Support Services other than agriculture and includes in general, manpower supply for various works. The support services supplied by the applicant are classified under SAC 99851 (as per submissions) in Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, the relevant portion of which is as below-



<b>Annexure: Scheme of Classification of Services</b>			
S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
1	Chapter 99		All Services
400	Heading 9985		Support services
401	Group 99851		Employment services including personnel search, referral service and labour supply service
402		998511	Executive or retained personnel search services
403		998512	Permanent placement services, other than executive search services
404		998513	Contract staffing services
405		998514	Temporary staffing services
406		998515	Long-term staffing (pay rolling) services
407		998516	Temporary staffing - to - permanent placement services
408		998517	Co-employment staffing services
409		998519	Other employment and labour supply services nowhere else classified

- Further, the applicant's contention that she being a supplier of manpower services under SAC 99851 is exempted from GST is not valid as farm labour supply services are classified under Chapter head 9986. The relevant extract of Chapter heading 9986 under Notification No. 12/2017 Central Tax (Rate) date 28/06/2017 (as amended) is as below-



Sl.No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
54	Heading 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) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; <b>(b) supply of farm labour;</b>	Nil	Nil


In view of the above, we find that, the supply of manpower services falling under SAC 99851 is not exempted from GST under Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 and Notification No 09/2017- Integrated Tax (Rate) dated 28.06.2017 as the said notification is available to supply of farm labour services falling under Chapter heading 9986 only.

- Further, Question 'b' and 'c' of the applicant (refer page 5 above) are beyond the scope of this authority as defined under Section 97(2) of GST Act, 2017 and therefore no advance ruling can be given on these questions.


6. In view of the foregoing, we rule as follows: -

**RULING**

- Exemption available to 'supply of farm labour' services falling under Chapter heading 9986 under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and Notification No. 09/2017- Integrated Tax (rate) dated 28.06.2017 is not available to supply of manpower services falling under SAC 99851.
- The Question 'b' and 'c' raised by the applicant are beyond the scope of this authority as defined under Section 97(2) of the GST Act, 2017. Hence no ruling is given.

  
J.P.MEENA  
Member  
(Central Tax)



  
HEMANT JAIN  
Member  
(State Tax)

**SPEED POST**

Mrs Manju Devi,  
(M/s M.D. Enterprises),  
CC-29, Hill View Garden,  
Trehan, Village-Thada, Bhiwadi,  
District- Alwar, Rajasthan 301019

F.No.AAR/ManjuDevi/2019-20/222-225

Date: 19.12.19

Copy to: -

1. Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, Central Tax, CGST and Central Excise Alwar Commissionerate, Block "A", Surya Nagar, Alwar, Rajasthan 301001.
3. STO, State Tax, Ward-1, Circle-B, Kar Bhavan, UIT Sector-6, Bhiwadi, District-Alwar, Rajasthan 301019.