

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai.
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT) / Member (FAC),
Enforcement / Inter-State Investigation Cell, Chennai-6.

ORDER No.9/AAR/2019 DATED 23.01.2019

GSTIN Number, if any / User id	33AAATR6368Q1ZT
Legal Name of Applicant	M/s. RAJIV GANDHI CENTRE FOR AQUACULTURE
Registered Address/Address provided while obtaining user id	3/197, Poompuhar Road, Karaimedu Village, Sattanathapuram(P.O), Sirkali(TK), Nagapattinam (DT), Pin 609 109
Details of Application	GST ARA 01 Application Sl.No.01 dated : 12.01.2018
Concerned Officer	State: The Commercial Tax officer, No.16A, Sattanathan Colony, Sirkazhi - 609 110. Centre: Trichirapalli Commissionerate - Cuddalore Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Service Provider
B Description (in Brief)	It is an autonomous body involved in aquaculture research and development in India.
Issue/s on which advance ruling required	Determination of liability to pay tax on services rendered

<p>Question(s) on which advance ruling is required</p>	<ol style="list-style-type: none"> 1. Considering the nature of transactions carried out by the Rajiv Gandhi Centre for Aquaculture (RGCA) and various exemption notification(s) under GST Laws whether RGCA is required to register under GST Laws? 2. If no registration is required for RGCA, whether compulsory registration u/s 24 is required to be made against any of the provisions of Section 24? 3. If so, whether separate registration is to be taken from all the states where the offices of RGCA is situated? Explain the procedure to obtain registration 4. If registration is required to be made, what are the tax rates applicable to the transactions of RGCA? 5. Since RGCA-Head office is having GST Registration (Migrated from TNVAT) at Tamil Nadu only other various project sites are located at different states but doesn't having the GST registration so far, If they want to purchase materials through interstate from Mumbai to its one of the branch at Kerala, how the purchases of the materials to be made and what are the documents to be carried for the transport of such purchased goods under GST?
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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.

M/s. Rajiv Gandhi Centre for Aquaculture [RGCA] is a society under Marine Products Export Development Authority, Ministry of Commerce & Industry, Govt. of India. It is a society registered under the Tamilnadu Societies Registration Act, 1975 and are having registered office at Door No.3/197, Poompuhar Road, Karaimedu Village, Sattanathapuram P.O., Nagapattinam (Dist), Sirkali Taluk —609109. RGCA has also registered itself under section 12AA of the Income-tax Act, 1961. RGCA has preferred an application for Advance Ruling on

1. Considering the nature of transactions carried out by RGCA and various exemption notification(s) under GST Laws whether RGCA is required to register under GST Laws?
2. If no registration is required for RGCA, whether compulsory registration u/s 24 is required to be made against any of the provisions of Section 24?
3. If so, whether separate registration is to be taken from all the states where the offices of RGCA is situated? Explain the procedure to obtain registration
4. If registration is required to be made, what are the tax rates applicable to the transactions of RGCA?
5. Since RGCA-Head office is having GST Registration (Migrated from TNVAT) at Tamil Nadu only other various project sites are located at different states but doesn't having the GST registration so far, If they want to purchase materials through interstate from Mumbai to its one of the branch at Kerala, how the purchases of the materials to be made and what are the documents to be carried for the transport of such purchased goods under GST?

2. Rajiv Gandhi Centre for Aquaculture (RGCA) was established during 1995-96 as a Society under the Tamil Nadu Societies Registration Act, 1975 by MPEDA (RGCA's parent organisation, which is an autonomous body created by an Act of Parliament during 1972), as its Research & Development arm to pioneer and deliver Aquaculture Research & Development in India. RGCA is funded by MPEDA, under the Ministry of Commerce & Industry through Central Sector Plan Schemes. RGCA, is having its Headquarters established at Sirkali, Nagapattinam District, Tamil Nadu. RGCA is governed by an Executive Committee comprising of members from various Ministries and Departments of both State(s) as well as Central; including from MPEDA, MoC & I, ICAR, DBT, MoA, Commissioner of Fisheries from Andhra Pradesh, Tamil Nadu and Gujarat; Director of Fisheries of Kerala, Andhra Pradesh, Tamil Nadu, Andaman & Nicobar Islands and U.T of Puducherry and The Chairman, MPEDA is the President RGCA.

2.1 RGCA operates 12 important aquaculture projects spread over 21 different species-centric locations across the country.

- Domestication of Tiger Shrimp Project, Andaman & Nicobar Islands
- Grouper Project, Andaman & Nicobar Islands
- Marine Fin Fish Hatchery Project, Kerala
- L.Vannamei Broodstock Multiplication , Andhra Pradesh
- Tilapia Project, Andhra Pradesh
- Aquaculture Demonstration Farm , Karaikal

All the activities of the Centre are concentrated solely for the purpose of improving and modernising various sustainable aquaculture technologies that are bio-secure, eco-friendly and traceable for seed production and grow-out farming of various species, those having export potential in particular for the betterment of the aquaculture industry in India and thereby the economy in large. The Centre operates on a 'no-profit no-loss' basis and is not engaging itself in any business with profit motive and is governed by two committees, the "Scientific Advisory Committee" to decide over all its technical matters including scientific research, planning & development activities and the "Executive Committee", which shall preside over the routine and all other executive and administrative matters. Both these committees comprise of eminent Scientists, Scholars and Heads of various Government Departments (Central and State), Universities, Educational and Scientific Research Institutes etc. The following are the main activities carried out by RGCA.

1. Research and development for general public
2. Providing Consultancy Services with respect to marine products developments
3. Testing Services (All types of testing services) with respect to agriculture and marine products
4. Training — Farmers, Entrepreneurs, self-group, students, hatchery owner etc
5. Sale of Fish, crab, (all kinds of seeds)
6. Sale of Harvest — fish
7. Sale Artemia Fish Feud (production and sales)

2.2 RGCA has further stated that they are rearing aqua produce (research oriented) and are selling fish (to develop fishery in India not for profit), fish feed, fish seed and involved in training and research development of aquaculture including

agriculture. RGCA has stated that they fall under the definition of person under Section 2 (84) of CGST Act as it is an entity(such as firm) other than a natural person *(human being) created by law and recognized as a legal entity having distinct identity , legal personality and duties and rights. As RGCA is registered under Tamil nadu Societies Registration Act 1975, it does not fall under Societies Registration Act 1860. AS per Section 2(17) of the Act, the activities of RGCA which are for promoting and developing the aquaculture fall under the definition of “business” though it is not for pecuniary benefit. The business of RGCA falls under the scope of supply under Section of GST as it is for consideration in the course or furtherance of business. They rear aqua produce (research oriented) and sell fish to develop fishery in India not for profit), fish feed, fish seed and training and research development. They are not “agriculturist” as per definition under Section 2(7) of CGST as it is not an individual or Hindu Undivided Family.

Their supply of fish seed, live fish and aquatic feed is exempted under Sl no 18, Sl no 19 and sly no 102 respectively of Notification 2/2017- Central Tax (Rate) dt 28.06.2017 as amended.

2.3 Activities of RGCA adopted that in turn contribute in preservation of environment of are as follows:

- Adoption of antibiotic and harmful chemical free breeding and farming practices in their projects. No antibiotics and banned or harmful chemicals are being used in order to safe guard their entry into consumers.
- All seeds or broodstock in RGCA are being produced in environment friendly procedures.
- Adoption of Recirculating Aquaculture System(RAS) in all its units to minimize the water wattage and to safe guard the ground water table
- Adoption of Effluent Treatment System (ETS) at all its units to eliminate release of pollutant directly into natural water bodies (river, stream, canal, ocean) and open soil.
- Adoption of cage farming techniques in few units to utilize natural trophic spheres of water bodies with yield increase.

Considering the above aspects, RGCA activities to fall under the category of "Preservation of environment'. The species dealt by RGCA falls in the category of “wildlife” under Section 2(37) of Wildlife Protection Act. The activities of RGCA fall under “charitable activities” of “preservation of environment including watershed, forests

and wildlife” and should be exempt under Notification No. 12/2017 – Central Tax(Rate) dt 28.06.2017.

2.4 All services of RGCA are related to supply of aquaculture species which is related to rearing of life forms of animals and agricultural produce and is exempted under Sl No. 54 of Notification No. 12/2017 – Central Tax (Rate) dt 28.06.2017. RGCA provides training to farmers, students etc. on best management practices for aquaculture which are “agricultural extension services as per the definition in Para 2© of this notification.

2.5 Though, the aggregate turnover of RGCA is exceeding Rs 20 lakhs, it is not liable to register itself under GST as it has no taxable supplies. If RGCA at any place of business or branch of any state or union territory make any taxable supplies, it is required to register under Section 24. However, as RGCA does not do any taxable supplies, it is not required to register. They are not required to register as they supply only goods and services which are exempt as per Section 23. RGCA avails technical services from experts and corporates outside India. AS per Section 7(1) (b) of CGST Act, scope of supply includes “import of services for consideration whether or not in the course or furtherance of business”. As per Section 7(4) of IGST Act, supply of services imported into India is an inter-state trade or commerce. In this case, the service received from outside India fall are used for research and development and consequential farmer training under the category of agricultural extension services which are exempt. RGCA avails legal services from advocates who appear on behalf of RGCA to courts and tribunals etc., hence they are liable to pay tax on reverse charge basis but as the services rendered by RGCA are not taxable, registration is not mandatory in their case and no tax is payable on reverse charge basis.

3. The Authorized Representative of the Applicant was heard in the matter. The Representative furnished Contracts/agreements for foreign technical service; MOU with Fisheries Department, Tamil Nadu for setting up of breeding and testing Centre copies of invoices raised; furnished nature of activity, annual report. They have also submitted the details of their activity to the jurisdictional authorities. The details and documents furnished were examined.

3.1 It is seen that the activities of RGCA are:

- Research and development activities of RGCA are technology development for breeding and farming of new/alternative species with high commercial value Viz. fish, prawn, shrimp, crab etc. They supply to small/marginal farmers and entrepreneurs for a consideration.
- Consultancy services supplied by RGCA relates to complete hatchery technology of Asian Sea bass, mud crab, GIFT tilapia, Cobia, Pompano; cage farming technology of Asian sea bass, Cobia and Prawn; Nursery technology of mud crab and Asian sea bass; Artemia biomass and cyst productions technology in saline earthen ponds; Broodstock Multiplication technology for *L. vannamei*; Aquatic Quarantine Facility technology for marine shrimps.
- They supply Asian Sea bass weaned fry and fingerlings, Mud crab instars, Cobia(marine fish) babies, GIFT tilapia (fish)mono sex babies, Pompano (marine fish), Brood/parent stock of *Litopenaeus vannamei* shrimp. They also supply artemia cysts from which, which serve as the main staple food for shrimp, prawn, fish and crab babies in all commercial hatcheries. They supply to small/marginal farmers and entrepreneurs for a consideration.
- Testing services supplied by RGCA are through developed state of the art testing laboratories at its head quarters. These are
 - a) Central Aquaculture Pathology Laboratory (CAPL) - In CAPL the tests being conducted are pathogen screening in feeds, seeds and adults, soil and water
 - b) Central Aquaculture Genetics Laboratory (CAGL) - In CAGL the tests conducted are pedigree genetic analysis, sequencing of pathogens and molecular testing for species confirmation etc.

The products being tested are

 - a) Seed (babies) of diversified aquaculture species viz., fish, prawn, crab etc., before stocking into farmer/entrepreneur's ponds
 - b. Adults of diversified species of aquaculture viz., fish, prawn, crab etc.,
 - c. Soil, water, feed etc for the presence of pathogens
 - d. Chemical analysis of water and soil
 - e. Gene sequencing for confirmation, species with prevailing ambiguity Eg: Mud crabs, Tilapia etc..

They supply to small/marginal farmers and entrepreneurs for a consideration.

- Training to farmers, entrepreneurs, self-help groups, students for a consideration includes
 - a. 5 days and 10 days hands on practical trainings on Best farming methods of diversified Aquaculture species viz., Asian sea bass, Mud crab, GIFT tilapia, Cobia, Pompano, Artemia biomass, culture, Artemia Cyst production from saline earthen ponds etc.,
 - b. 2 or 3 days theoretical trainings for students and academia
 - c. Seminars, workshops, awareness Programs, alternative species farming.
 - RGCA is producing and supplying to the farmers and entrepreneurs the live fish seeds, which is miniature of adult produced in captive condition. They supply seed of fish, prawn, shrimp and crab species for a subsidized price.
 - They also sell freshly harvested fish, shrimp, and crabs from their demonstration farms but not on commercial basis.
 - They supply cysts of Artemia to commercial shrimp /prawn, fish hatcheries for a consideration. The larvae coming out of these cysts are staple food served to shrimp /prawn/ fish/crab larvae in commercial hatcheries.
 - RGCA avail technical services from experts and corporates outside India. The nature of foreign technical services being received by RGCA are as follows:-
 - a) Breeding and seed production technology of new and alternative varieties of aquaculture organism viz., Asian Sea bass, mono sex Scampi, Mud crab, Coble, mono sex GIFT tilapia etc.,
 - b) Best farming practices for yield improvement in aquaculture viz., Sea bass cage farming, mono sex GIFT tilapia farming, Artemia farming and cyst production etc.,
 - c) Environment friendly technologies viz., RAS
 - RGCA has also entered into MOUs with various State Government such as Department of Fisheries, Government of Tamil Nadu for technical assistance for setting up a breeding and training Centre to supply fish seed to farmers at Krishnagiri Government fish seed farm; Department of Fisheries, Government of Andhra Pradesh for providing technical assistance and consultancy services for establishment and operationalization of Asian Sea bass Hatchery
4. In view of the facts as stated above, the questions on which advance ruling is sought are taken for discussion as under:

4.1 Question No.1 in the application for advance ruling is considering the nature of transactions carried out by RGCA and various exemption notification(s) under GST Laws whether they are liable to be registered under the GST laws.

Section 22(1) of the CGST Act, 2017 provides that

22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

“Aggregate turnover” is defined in Sec.2 (6) to mean the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, export of goods or services, and inter-state supplies of persons having the same PAN to be computed on all-India basis.

Section.23 (1), provides that

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

From the above statutory provisions, it is evident that if the aggregate turnover exceeds the Rs.20 lakh limit or if a person was registered under an existing law, he is liable to be registered under this Act. In the case at hand, it is a stated fact that RGCA was registered under VAT laws. So, as per Section 22(2), they are liable to be registered under GST with effect from the appointed day. RGCA have also referred to Sec. 23, which specifies the persons who shall not be liable for registration. They have expressed their view that since their supplies are exempt from tax, they are covered under Sec.23 (1) (a), under which there is no liability for registration.

4.2 To identify this, we must first find the tax rates of the various supplies made by RGCA which has also been sought by RGCA in the advance ruling.

5. The goods being supplied by RGCA are

- Live seeds of fish, prawn, shrimp and crab species such as Asian Sea bass weaned fry and fingerlings, Mud crab instars, Cobia(marine fish) babies,

GIFT tilapia (fish) mono sex babies, which are miniature of adult produced in captive condition.

- Live fish /shrimp etc. such as Pompano (marine fish), Brood/parent stock of *Litopenaeus vannamei* shrimp.
- Artemia cysts which serve as the main staple food for shrimp, prawn, fish and crab babies in all commercial hatcheries.

Explanatory Notes to Chapter 03, General Note state:

This Chapter covers all fish and crustaceans, molluscs and other aquatic invertebrates, whether live or dead, presented for direct consumption, or for industrial purposes (canning, etc.), for spawning, for aquaria, etc., with the **exception** of dead fish (including livers and roes thereof), crustaceans, molluscs and other aquatic invertebrates which are unfit or unsuitable for human consumption by reason of either their species or their condition (**Chapter 5**).

Explanatory Notes to Tariff heading 0301 states:

This heading covers all live fish, whatever their intended use (e.g., ornamental fish). Therefore, live fish/prawn/shrimp and live seed fish, prawn, shrimp and crab species, which are baby fish and crustaceans, are classifiable under 0301.

Chapter 3 – Fish seeds, prawn/shrimp seeds other than goods falling under Chapter 3 and attracting 2.5% are exempt from CGST under Sl. No.18 of Notification No.2/2017-C.T. (Rate) dated 28.06.2017 as amended and from SGST under Sl. No.18 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended. Goods of Chapter 3 attracting 2.5% are goods other than fresh or chilled. Therefore live fish/shrimp/crab/prawn seed supplied by RGCA are exempt from tax.

Heading 0301 – Live fish are exempt from CGST under Sl. No.19 of Notification No.2/2017-C.T. (Rate) dated 28.06.2017 as amended and from SGST under Sl. No.19 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended.

Therefore, live fish supplied by RGCA are exempt from tax.

5.1 RGCA has stated that Artemia cysts that they supply are aquatic feed classifiable under 2302/2304/ 2305/ 2306/ 2308/ 2309. Artemia, also called brine shrimp, is a species of crustacean and cysts are eggs of the shrimp from which larvae hatch which is in turn used as aquatic feed.

Tariff Heading 2302, 2304,2305,2306,2308 all covers products of vegetable. Hence, Artemia cysts cannot be classified under any of these tariff headings.

Tariff heading 2309 covers Preparations of a Kind Used in Animal Feeding

Explanatory Notes to Tariff heading 2309 states:

The heading includes products of a kind used in animal feeding, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, for example, in the case of products obtained from vegetable materials, those which have been treated to such an extent that the characteristic cellular structure of the original vegetable material is no longer recognisable under a microscope.

Tariff heading covers products which are obtained by processing animal material to such an extent that they have lost the essential characteristics of original material. However, Artemia cysts are eggs if the brine shrimp from which larvae can be hatched. Hence, the Artemia cysts have not lost their essential characteristics and cannot be classified under tariff heading 2309.

Tariff heading 0511 covers

0511 Animal Products Not Elsewhere Specified or Included; Dead Animals of Chapter 1 Or 3, Unfit For Human Consumption

0511 10 00 - Bovine semen

- Other :

0511 91 -- Products of fish or crustaceans, molluscs or other aquatic invertebrates; dead animals of Chapter 3:

0511 91 10 --- Fish nails

0511 91 20 --- Fish

0511 91 30 --- Other fish waste

0511 91 90 --- Other

0511 99 -- Other:

--- Silkworm pupae:

0511 99 11 ---- Artemia

0511 99 19 ---- Other

--- Sinews and tendons:

0511 99 21 ---- Of wild life

0511 99 29 ---- Other

--- Other:

0511 99 91 ---- Frozen semen, other than bovine; bovine embryo

0511 99 92 ---- Of wild life

0511 99 99 ---- Other

Explanatory Notes to Chapter 05, General Note state:

This Chapter covers a variety of materials of animal origin, unworked or having undergone a simple process of preparation, which are not normally used as food (**except** certain blood, guts, bladders and stomachs of animals) and which are not dealt with in other Chapters of the Nomenclature.

Explanatory Notes to Tariff heading 0511 states that tariff heading 0511 includes

(5) **Inedible fish eggs, roes and milt.**

These comprise :

- (i) Fertile eggs for hatching, recognisable by the presence of black spots which are the embryonic eyes.
- (ii) Salted roes (e.g., of cod or mackerel) used as fishing bait. These can be distinguished from caviar substitutes (**heading 16.04**) by their strong disagreeable odour and because they are usually packed in bulk.

Artemia cysts are eggs of brine shrimp or Artemia which is a crustacean. These eggs are used for hatching larvae and they are not for human consumption. This is covered under Chapter 05 as products of animal origin and ore specifically under tariff 0511 under product of crustaceans on similar lines as fish eggs.

Heading 0511- Animal products not elsewhere specified or included are taxable at 2.5% CGST under Sl. No.21 of Notification No.1/2017-C.T. (Rate) dated 28.06.2017 as amended and at 2.5% SGST under Sl. No.21 of Notification No. II (2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended. Therefore, Artemia cysts supplied by RGCA are taxable at 2.5% CGST and 2.5% SGST as above.

6. RGCA have stated that they supply various services, for which the advance ruling has been sought for applicable tax rates. They have stated that their supply of services qualifies for exemption from CGST in terms of the under-mentioned entries of Sl no 1 Notification No.12/2017-C.T. (Rate) dated 28.06.2017 as Services by an entity registered under Section 12AA of the Income Tax Act, 1961 by way of charitable activities where RGCA states their “*charitable activities*” relates to preservation of environment including watershed, forests and wildlife as per Para 2(r) of the above notification. The mission statement of RGCA does not include ‘Preservation of environment’ but states that the mission is ‘To develop, introduce and disseminate world class sustainable technologies in aquaculture’. Thus RGCA, mainly, is the R& D arm of MPEDA and the mission is to undertake research, give consultancy and technical services to the farmers, entrepreneurs, and scale up the technologies developed, etc. after assuring the commercial viability. Therefore, the activities of RGCA do not constitute as preservation of environment or wildlife but are related to research, consultancy, and technical services to aquaculture.

6.1 Research and development activities of RGCA are technology development for breeding and farming of new/alternative species with high commercial value Viz. fish, prawn, shrimp, crab etc. They supply to small/marginal farmers and entrepreneurs for a consideration.

SAC 998114 covers *Research and experimental development services in agricultural sciences*

This service code includes basic and applied research services and experimental development services related to agricultural techniques, fruit culture, forestry, stock breeding, fisheries, etc.

SAC 9981 Research and development services are taxable at 9% CGST under Sl no 18 of Notification No 11/2017 dt 28.06.2017 as amended. In the present case research and development activities of RGCA are towards breeding, developing new species which is covered under SAC 9981 and taxable at 9% CGST under Sl no 18 of Notification No 11/2017 dt 28.06.2017 as amended and 9% SGST under Sl no 18 of Notification No .II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.

6.2 Consultancy services supplied by RGCA relates to complete hatchery technology of Asian Sea bass, dud crab, GIFT tilapia, Cobia, Pompano; cage farming technology of Asian sea bass, Cobia and Prawn; Nursery technology of mud crab and Asian sea bass; Artemia biomass and cyst productions technology in saline earthen ponds; Broodstock Multiplication technology for *L. vannamei*; Aquatic Quarantine Facility technology for marine shrimps. RGCA has also entered into MOUs with various State Government such as Department of Fisheries, Government of Tamil Nadu for technical assistance for setting up a breeding and training Centre to supply fish seed to farmers at Krishnagiri Government fish seed farm; Department of Fisheries, Government of Andhra Pradesh for providing technical assistance and consultancy services for establishment and operationalization of Asian Sea bass Hatchery

The Explanatory notes explaining the scope of services under the heading 9986 states as follows:

998615 Support services to fishing

This service code includes services involving operation of a fishing unit on a fee or contract basis; operation of an aquaculture unit on a fee or contract basis; other support services related to fishery, fish hatcheries and fish farms

998619 Other support services related to agriculture, hunting, forestry and fishing

This service code includes other support services related to agriculture, hunting, forestry and fishing,

The consultancy services supplied by RGCA are towards the operation of aquaculture and fish farms and are classifiable under SAC 9986.

Heading 9986 - Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fiber, 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;

are exempt under Sl no 54 of Notification No 12/2017 dt 28.06.2017 as amended.

Explanation 4 to this notification states:

(vii)“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.

In the present case consultancy services of RGCA are towards nursery technology, cage farming hatching etc. which are support services for rearing of fish, crab, prawn, etc. and are directly related to operations and hence are exempt from CGST under Sl. No. 54 of Notification No 12/2017 dt 28.06.2017 as amended and exempt from SGST under Sl no 54 of Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended

6.3 Testing services supplied by RGCA are through developed state of the art testing laboratories at its headquarters. These are

- a) Central Aquaculture Pathology Laboratory (CAPL) - In CAPL the tests being conducted are pathogen screening in feeds, seeds and adults, soil.
- b) Central Aquaculture Genetics Laboratory (CAGL) - In CAGL the tests conducted is pedigree genetic analysis, sequencing of pathogens and molecular testing for species confirmation etc.

The products being tested are

- a) Seed (babies) of diversified aquaculture species viz., fish, prawn, crab etc., before stocking into farmer/entrepreneur's ponds
- b. Adults of diversified species of aquaculture viz., fish, prawn, crab etc.,
- c. Soil, water, feed etc. for the presence of pathogens
- d. Chemical analysis of water and soil

e. Gene sequencing for confirmation, species with prevailing ambiguity Eg: Mud crabs, Tilapia etc..

RGCA has stated that these services will qualify as Support services to fishing. However, as per the Explanatory Notes for SAC 9986, support services are the services involved directly in operation of the fish farms , hatcheries or aquaculture, whereas these testing services above are not directly involved in operation of fish farms, hatcheries aquaculture etc.

The Explanatory notes explaining the scope of services under the heading 998346 states as follows:

998346 Technical testing and analysis services

This service code includes

1. testing and analysis of the chemical and biological properties of materials such as air, water, waste (municipal and industrial), fuels, metal, soil, minerals, food and chemicals;
2. testing and analysis in related scientific fields such as microbiology, biochemistry, bacteriology, etc.;

In the instant case, testing for pathogens of soil, water, feed etc. and chemical analysis of water and soil are covered under SAC 998346 as technical testing and analysis services under the inclusion 1 above. Gene sequencing of pathogens are covered under inclusion 2 above in the field of microbiology under SAC 998346.

In the present case, testing for pathogens of soil, water, feed etc. and chemical analysis of water and soil and Gene sequencing of pathogens by RGCA which is covered under SAC 998346 and taxable at 9% CGST under Sl no 21 of Notification No 11/2017 dt 28.06.2017 as amended and 9% SGST under Sl no 21 of Notification No. II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.

The Explanatory notes explaining the scope of services under the heading 99811 states as follows:

99811 Research and experimental development services in natural sciences and engineering

998111 Research and experimental development services in natural sciences

This service code includes basic and applied research services in natural sciences, experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any particular application of use in view and experimental development services involving systematic

work, drawing on knowledge gained from research and practical experience, that is directed

iv. in biotechnology related to knowledge requiring one or more of the techniques: DNA/RNA like genomics, pharmacogenomics, gene probes, genetic engineering, DNA/RNA sequencing/synthesis/amplification, gene expression profiling, and the use of antisense technology; proteins and other molecules like sequencing/synthesis/engineering of proteins and peptides (including large molecule hormones); proteomics, protein isolation and purification, signaling, identification of cell receptors;

The testing of Seed (babies) and adults of diversified aquaculture species viz., fish, prawn, crab etc., and Gene sequencing for confirmation of species covered under SAC 9981 and taxable at 9% CGST under Sl no 18 of Notification No 11/2017 dt 28.06.2017 as amended and 9% SGST under Sl no 18 of Notification No .II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.

6.4 Training to farmers, entrepreneurs, self-help groups, students for a consideration includes

- a. 5 days and 10 days hands on practical trainings on Best farming methods of diversified Aquaculture species viz., Asian sea bass, Mud crab, GIFT tilapia, Cobia, Pompano, Artemia biomass, culture, Artemia Cyst production from saline earthen ponds etc.,
- b. 2 or 3 days theoretical trainings for students and academia
- c. Seminars, workshops, awareness Programs, alternative species farming.

RGCA provides training, conducts workshops on the best practices of rearing of aquaculture to farmers, hatcheries, students, academia etc. They state that these services qualify as “*agricultural extension services*” .

The definition of “*agricultural extension services*” as given in the notification 12/2017-C.T.(Rate) is reproduced below :-

“Agricultural extension” means application of scientific research and knowledge to agricultural practices through farmer education or training;

These are support services under SAC 9986, in this case related to fishing.

Agricultural extension as per the definition is transmission of scientific research and knowledge to the actual producers, in this case farmers or hatcheries.

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—

(f) Agricultural extension services;

are exempt under Sl no 54 of Notification No 12/2017 dt 28.06.2017 as amended.

In the present case training services of RGCA to farmers, hatcheries which are support services for rearing of fish ,crab, prawn , etc. and are agricultural extension services covered under SAC 9986 and hence are exempt from CGST under Sl no 54 of Notification No 12/2017 dt 28.06.2017 as amended and exempt from SGST under Sl no 54 of Notification No.II(2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended

Whereas , training to students and academia will not form a part of agricultural extension service. It is merely imparting skill or knowledge imparted for a consideration.

The Explanatory notes explaining the scope of services under the heading 999293 states as follows:

999293 Commercial training and coaching services

This service code includes any training or coaching provided by any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes.

The training activities of RGCA to students, academia who are not directly involved in rearing of fish, aquaculture etc. are covered under SAC 999293 and taxable at 9% CGST under Sl no 30 of Notification No 11/2017 dt 28.06.2017 as amended and 9% SGST under Sl no 30 of Notification No .II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.

7. As stated in Para 5 and 6 supra, it is clear that all the supplies of RGCA are not exempt and some are taxable supplies. RGCA has also stated that their aggregate turnover is above Rs 20 Lakhs and that they are also receiving consultancy services from abroad and receiving legal services, which are covered under reverse charge mechanism . In any case , RGCA is making taxable supplies and hence is not covered

under the exemption from registration under Section 23 . Therefore RGCA is liable for registration under Section 22 of CGST/TNGST Act. Question No.2 is If no registration is required for RGCA, whether compulsory registration under section 24 is required to be made against any of the provisions of Section 24 of the CGST Act, 2017 . As the answer to Question 1 is RGCA is required to obtain registration, the Question No. 2 is redundant and not taken up

8. Question No.3 in the application for advance ruling is whether separate registrations are required to be taken from all the States where the offices of M/s RGCA are located. In this regard, it is observed that Section 25(1) of the CGST Act, 2017 provides that every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable. Therefore, registration is required to be taken in the states or union territory from where taxable supplies are made.

9. Question No.4 in the application for Advance Ruling is what the rates of tax applicable to their transactions are. The rate of tax for each of the supplies made by RGCA are discussed in Para 5 and 6 above.

10. Question No.5 in the application for Advance Ruling is that when only their Head Office in Tamilnadu has GST registration, how purchase of material by their branch in Kerala from Mumbai is to be made and what documents are required to be carried under GST law for the transport of such purchased goods. In this regard, it is observed that this question is not on any of the specified issues in respect of which advance ruling may be sought in terms of Section 97(2) of the CGST Act, 2017. Therefore, the provisions of Advance Ruling are not applicable to this question and no ruling is provided in this regard.

11. In view of the foregoing findings, we rule as under:

RULING

1. The Applicant, RGCA is liable to be registered under Section 22 of CGST and TNGST Act.
2. RGCA shall obtain registration in every such State or Union territory in which he is so liable.
3. The rate of tax for various supplies of goods and services supplied by RGCA are :

- a. Fish seeds, prawn/shrimp seeds supplied by RGCA, classifiable under 0301, are exempt from CGST under Sl. No.18 of Notification No.2/2017-C.T. (Rate) dated 28.06.2017 as amended and from SGST under Sl. No.18 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended.
- b. Live fish supplied by RGCA, classifiable under 0301, are exempt from CGST under Sl. No.19 of Notification No.2/2017-C.T. (Rate) dated 28.06.2017 as amended and from SGST under Sl. No.19 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended.
- c. Artemia cysts supplied by RGCA, classifiable under 0511, are taxable at 2.5% CGST under Sl. No.21 of Notification No.1/2017-C.T. (Rate) dated 28.06.2017 as amended and at 2.5% SGST under Sl. No.21 of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended.
- d. Research and development activities of RGCA are towards breeding, developing new species, genetic testing of Seed and adults of diversified aquaculture species, Gene sequencing for confirmation of species, under SAC 9981, are taxable at 9% CGST under Sl no 18 of Notification No 11/2017 dt 28.06.2017 as amended and 9% SGST under Sl no 18 of Notification No .II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.
- e. Consultancy services of RGCA are towards nursery technology, cage farming hatching etc. which are support services for rearing of fish ,crab, prawn , etc. and are directly related to operations ,classifiable under SAC 9986, are exempt from CGST under Sl no 54 of Notification No 12/2017 dt 28.06.2017 as amended and exempt from SGST under Sl no 54 of Notification No.II(2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended
- f. testing for pathogens of soil, water, feed etc. and chemical analysis of water and soil and Gene sequencing of pathogens, classifiable under SAC 9983, by at 9% CGST under Sl no 21 of Notification No 11/2017 dt 28.06.2017 as amended and 9% SGST under Sl no 21 of Notification No .II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.

- g. training services of RGCA to farmers, hatcheries which are support services for rearing of fish ,crab, prawn , etc. and are agricultural extension services covered under SAC 9986 and hence are exempt from CGST under Sl no 54 of Notification No 12/2017 dt 28.06.2017 as amended and exempt from SGST under Sl no 54 of Notification No.II(2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended
- h. The training activities of RGCA to students, academia who are not directly involved in rearing of fish, aquaculture etc. are covered under SAC 9992 and taxable at 9% CGST under Sl no 30 of Notification No 11/2017 dt 28.06.2017 as amended and 9% SGST under Sl no 30 of Notification No.II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.



Ms. Manasa Gangotri Kata, IRS
Member,CGST.


23.1.19
Shri. S.Vijayakumar, M.Sc.,
Member(FAC),TNGST

To

M/s. RAJIV GANDHI CENTRE FOR AQUACULTURE
3/197, Poompuhar Road,
Karaimedu Village,
Sattanathapuram (P.O), Sirkali(TK)
Nagapattinam (DT), Pin 609 109

/By SPAD/



Copy Submitted to:

1. The Additional Chief Secretary / Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.
2. The Principal Chief Commissioner of GST & Central Excise,
No 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Commercial Tax officer,
No.16A, Sattanathan Colony,
Sirkazhi - 609 110.
4. The Commissioner of GST & C.Ex.,
Tiruchirapalli Commissionerate,
5. Master File/ Spare-2.