

GIB/KA/RAJASHRI/23.04.18/AAR-11

Advance Ruling Category : Going concern

State : Karnataka

Order No.: GIB/KA/RAJASHRI/23.04.18/AAR-11

Name of Entry :
RAJASHRI FOODS PVT. LTD

Date : 23-04-2018

Product/ Service Involve :
Manufacturers in animal feed

Breif Issue :

Fact And Issue Of The Case:

1. Whether the transaction would amount to supply of goods or supply of services or supply of goods & services?
2. Whether the transaction would cover under sl.no.2 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017?

The applicant, M/s Rajashri Foods Pvt Ltd wanted to sell one of its units along with fixed and current assets as well as liabilities, including bank loans, for a lump sum consideration.

Transfer or a going concern means the transfer of a running business which is capable of being carried on by the purchaser as an independent business. Such transfer of the business as a whole will comprise comprehensive transfer or immovable property, goods and transfer of unexecuted orders, employees, goodwill etc

In the instant case, the Applicant has not furnished any documentary evidence to establish that the Applicant is a going concern except their admission that its an ongoing business and the transaction proposes to transfer all the assets and liabilities to the new owner. It implies that the business will continue in the new hands with regularity and a nature of permanency.

Decision of Advance Ruling Authority :

Decision:

1. The transaction of transfer of business as a whole of one of the units of the Applicant in the nature of a going concern amounts to supply of service.
2. The transaction of transfer of one of the units of the Applicant as a going concern is covered under

Sl.No.2 of the Notification No.12/2017 Central Tax (Rate) dated 28.06.2017 subject to the condition that the unit is a going concern.