

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6**

**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),
Office of the Joint Commissioner (ST), Enforcement /
Inter-State Investigation Cell, Chennai-6.

ORDER No.25/AAR/2018 DATED:31.12.2018

GSTIN Number, if any / User id	33AANPC6142N1ZL
Legal Name of Applicant	Palaniappan Chinnadurai [Prop: M/s.Tuticorin Lime and Chemical Industries]
Registered Address/Address provided while obtaining user id	No.4/103, Saikanth Building, Muthammal Colony, Thoothukudi, Tamil Nadu - 628 002.
Details of Application	GST ARA - 001 Application Sl.No.42 dated 14.08.2018
Concerned Officer	State : The Assistant Commissioner (ST), Tuticorin-I Assessment Circle New Commercial Taxes Building, 282-A, Beach Road, Post Box No.145 Tuticorin 628 001. Centre: Commissionerate- Madurai, Division- Tuticorin
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Manufacturer
B Description (in Brief)	Quick Lime of low purity (Below 70% Calcium Oxide content) and Slacked Lime of low purity (Below 70% Calcium Hydroxide content) which are used for building purposes

		i.e white washing etc., comes under chapter 25 which attracts 5% GST rate.; Quick Lime of high purity (Above 70% Calcium Oxide content) and Slacked Lime of high purity (Above 70% Calcium Hydroxide content) which are used for industrial purposes like steel making, chemical plant etc., comes under chapter 28 which attracts 18% GST rate.
Issue/s on which advance ruling required		Classification of goods
Question(s) on which advance ruling is required		What is the applicable chapter and GST rate for Industrial Grade Quick Lime having 86% of Calcium Oxide content and Industrial Grade Slacked Lime having 86% of Calcium Hydroxide content?

Note: Any Appeal against the advance ruling order shall be filed before the Tamilnadu 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.

Shri. Palaniappan Chinnadurai [Prop: M/s.Tuticorin Lime and Chemical Industries] No.4/103, Saikanth Building, Muthammal Colony, Thoothukudi - 628 002, (herein after called the Applicant) is a Registered person under GST 2017 with GSTIN 33AANPC6142N1ZL. The Applicant are going to start sales of hydrated lime. They have filed an Application seeking Advance Ruling on the following question:

“What is the applicable chapter and GST rate for Quicklime having 86% Calcium oxide content and Slacked lime having 86% Calcium hydroxide content?”

The Applicant has submitted the copy of Application in Form GST ARA – 001 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. The Applicant has stated that they manufacture Industrial Grade Quick Lime and Slacked Lime and the purity of Quick Lime is 86% Calcium Oxide (Cao) content and purity of Slacked Lime is 86% Calcium Hydroxide.; Normally Quick lime and slaked lime are classified under Chapter 2522 and the applicable GST Rate is 5%. CBEC Authority for Advance Rulings, in the Ruling No. AAR/02(CE)/2007 dated 30/08/2007 under paragraph 11.1, stated that

1. Quick Lime which is a less pure form of calcium oxide is used in building for white washing etc And the purer versions of quicklime with higher concentrations of calcium oxide find more sophisticated uses in steel making, manufacture of chemicals, etc

2. Quicklime which is more akin to mineral product lime, in a relatively crude form will merit classification under chapter 25, whereas the purer versions containing higher concentration of calcium oxide would get classified as metal oxide under chapter 28

The Applicant has stated that quicklime of low purity (Below 70% Calcium Oxide content) and Slacked Lime which is of low purity (Below 70% Calcium Hydroxide content) which are used for building purposes i.e. white washing etc., will come under chapter 25 and attracts 5% GST rate.; Quick Lime which is of high purity (Above 70% Calcium Oxide content) and Slacked Lime which is of high purity (Above 70% Calcium Hydroxide content) which are used for industrial purposes like Steel making, Chemical Plant etc., will come under chapter 28 and attract 18% GST rate.; GST rates for quicklime and slaked lime when searched in CBEC-GST, the goods come under chapter 25 with 5% GST; but when calcium oxide and calcium hydroxide are searched, both the goods come under chapter 28 with 18% GST. Therefore, the Applicant has sought clarification of Quicklime and slaked lime and the applicable GST rate.

3. The Applicant was personally heard on the matter. They submitted CBEC Advance Ruling of 2007. They have stated that they manufacture Quick Lime and Slaked Lime, which in purity range between 70 to 90%, and sell to the Water Treatment Plants and Industries. They have also stated that their Products would

fall under the Chapter 28. They subsequently submitted copies of Purchase Order and Invoices with Lab Reports of M/s. Kaycee Industrial Chemicals Private Limited, wherein the Applicant is the Managing Director, the Applicant is going to start sales of hydrated lime from Tuticorin Lime and Chemical Industries shortly. They also submitted Brief description of manufacturing process.

4.1 Documents submitted were verified. The manufacturing process involves they heat (Calcination) Lime Stone which is Calcium Carbonate (CaCO_3) in the lime kiln; Limestone decomposes into Quick Lime which is Calcium Oxide (CaO) and Carbon dioxide (CO_2). This product contains 70 to 90% Calcium Oxide content and this is known as Quick Lime or Burnt Lime, and it is in lump form. The balance material is un-burnt Calcium Carbonate. This Quicklime is sprayed with water to give Slaked Lime, which contains Calcium Hydroxide (Ca(OH)_2), which is in powder form. This product is known as Slaked Lime / Hydrated Lime, which contains 70 to 90% Ca(OH)_2 . The balance material is un-burnt Calcium Carbonate. They sell their Slaked Lime or Hydrated Lime to Chemical Industries like The Kerala Minerals and Metals Limited and Water Treatment Plants like The Kerala Water Authority. It is seen from the invoices raised on these buyers by Kaycee Industrial Chemicals Pvt Limited as "Hydrated Lime", HSN 28259040 with the lab report giving a purity of 87.88%, 79.8%, 88.92%, 84.6% calcium hydroxide with the acceptable content at 70% as per the purchase order.

4.2 The Applicants have relied on the order of Advance Ruling of Central Board of Excise and Customs in the Ruling No. AAR/02(CE)/2007 dated 30.08.2007 wherein it was held that *burnt lime proposed to be used in the manufacture of steel and comprising of 94-96% of calcium oxide and permissible impurities, is more akin to the 'separate chemically defined compound'-calcium oxide than to the mineral product lime in the crude state and would therefore merit classification as a metal oxide under 28259090 of chapter 28*

5.1 The issue to be decided is the classification of Quicklime having 86% Calcium oxide content and Slaked lime having 86% Calcium Hydroxide content and the applicable rate under GST.

5.2 In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, sub-heading, heading and chapter shall mean respectively a tariff item, sub-heading, heading and chapter as

specified in the First Schedule to the Customs Tariff Act, 1975 and the Rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods. The Customs Tariff is aligned with HSN. In the above referred ruling, the discussion is based on Excise Tariff which is also aligned with HSN and therefore the observations/interpretations with respect to the Section Notes and chapter Notes holds in the current taxation of GST.

5.3. Chapter 2522 of Customs Tariff covers Quicklime, Slaked Lime and Hydraulic Lime, Other Than Calcium Oxide and Hydroxide of Heading 2825 and CTH 2522 1000 covers Quick lime and CTH 25222000 covers slaked lime

General Notes to HSN Explanatory Notes to Chapter 25 states:

Quicklime (an impure calcium oxide) is obtained by calcining limestone containing very little or no clay. It combines very rapidly with water, giving off considerable heat and producing slaked lime (calcium hydroxide). **Slaked lime** is usually employed for soil improvement or in the sugar industry.

Hydraulic lime is obtained by low temperature calcination of limestone containing sufficient clay (although usually less than 20 %) to ensure that the product sets under water. Hydraulic lime differs from natural cement in that it still contains appreciable amounts of uncombined quicklime, which may be slaked with water.

The heading excludes purified calcium oxide and calcium hydroxide (heading 28.25).

From the above, it is seen that Quick lime is obtained by calcination of limestone i.e. calcium carbonate giving calcium oxide and carbon dioxide and when it is further combined with water, it produces slaked lime which is calcium hydroxide. Quick lime is used for building purposes such as white washing, whereas slaked lime is used in soil improvement and in plasters. However, purified calcium oxide and purified calcium hydroxide is excluded from 2822.

Chapter 28 of Section VI of Customs Tariff covers Inorganic Chemicals, Organic or Inorganic Compounds of Precious Metals, Of Rare-Earth Metals, Of Radioactive Elements or Of Isotopes.

Chapter 2825 covers Hydrazine and Hydroxylamine and Their Inorganic Salts; Other Inorganic Bases; Other Metal Oxides, Hydroxides and Peroxides. CTH 28259040 covers Calcium Hydroxide and CTH 28259090 covers others.

Note 1 to Chapter 28 states:

NOTES: 1. except where the context otherwise requires, the headings of this Chapter apply only to: (a) separate chemical elements and separate chemically defined compounds, whether or not containing impurities; (b) the products mentioned in (a) above dissolved in water;

HSN Explanatory Notes to chapter heading 2825 states:

- (11) **Calcium oxide, hydroxide and peroxide.** This heading covers only the oxide (CaO) and the hydroxide (Ca(OH)₂), in the pure state (i.e., containing practically no clay, iron oxide, manganese oxide, etc.), such as the product obtained by calcining precipitated calcium carbonate.

The heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (approximately 98 % calcium oxide); it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase its resistance to wear.

Calcium peroxide (CaO₂) is a white or yellowish powder, hydrated (usually with 8 H₂O), sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Quicklime (calcium oxide) and slaked lime (calcium hydroxide) are **excluded** (heading 25.22).

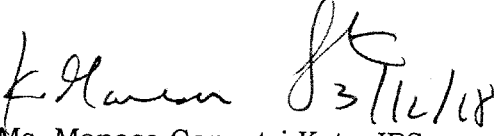
According to Wikipedia, Calcium Oxide is in manufacturing of cement, paper, and high-grade steel, for medicinal purpose and insecticides. Calcium Hydroxide is used in food, paper industry and in water and sewage treatment plant. It is seen that purified forms of calcium oxide and calcium hydroxide having industrial applications with high purity, which is the case in hand here, are covered under CTH 28259090 for calcium oxide and CTH 28259040 for calcium hydroxide.


5.4 Applying the above, to the case at hand, we find from the manufacturing process and the requirement of the intended buyers, that the goods to be supplied is industrial grade Calcium Hydroxide of high purity of 86% and industrial grade Calcium oxide of high purity of 86% are rightly classifiable under CTH 28259040 and CTH 28259090 respectively taxable at 9% CGST and 9% SGST as per entry sl.No.38 of Schedule III of Notification no. 01/2017-C.T.(Rate) dated 28.06.2017 as amended and G.O. (Ms) No. 62 dated 29.06.2017 No. II (2)/CTR/532(d-4)/2017 as amended respectively.

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

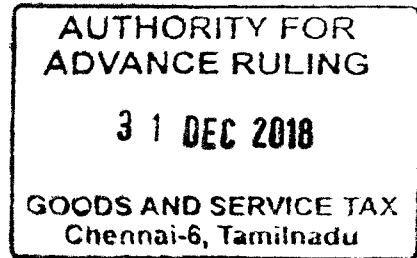
RULING

Industrial Grade Quick Lime having 86% of Calcium Oxide content and Industrial Grade Slacked Lime having 86% of Calcium Hydroxide content, proposed to be supplied by the applicant are classifiable under CTH 28259090 and CTH 28259040 and respectively, both taxable at 9% CGST and 9% SGST as per entry sl.No.38 of Schedule III of Notification no. 01/2017-C.T. (Rate) dated 28.06.2017 as amended and G.O. (Ms) No. 62 dated 29.06.2017 No. II (2)/CTR/532(d-4)/2017 as amended respectively.


Ms. Manasa Gangotri Kata, IRS
Member, CGST


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

To
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Copy Submitted to:

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2. The Principal Chief Commissioner of GST & Central Excise, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Assistant Commissioner (ST), Tuticorin-I Assessment Circle New Commercial Taxes Building, 282-A, Beach Road, Post Box No.145 Tuticorin 628 001.

4. The Commissioner of GST & C.Ex.,
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5. Master File/ Spare - 2.