

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 49 / 2019

Date : 18th September, 2019

Present:

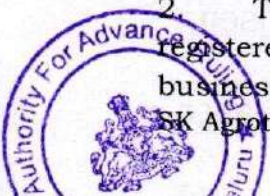
1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax, Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

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|----|---|---|
| 1. | Name and address of the applicant | M/s S.K. Aagrotechh, Survey No. 114, Gottigehalli Road, Kaggalalli, Kanakapura Taluk, Ramanagar District. |
| 2. | GSTIN or User ID | 29ADBFS9479D1ZK |
| 3. | Date of filing of Form GST ARA-01 | 09-10-2018 |
| 4. | Represented by | Sri T.R Venkateswaran, Chartered Accountant |
| 5. | Jurisdictional Authority - Centre | The Commissioner of Central Tax, Bangalore West Commissionerate. |
| 6. | Jurisdictional Authority - State | LGSTO-155, Ramanagar |
| 7. | Whether the payment of fees discharged and if yes, the amount and CIN | Yes, discharged fee of Rs.5,000/- under CGST Act 2017 vide CIN SBIN18102900049130 dated 8.10.2018 & Rs.5,000/- under KGST Act 2017 vide CIN SBIN18102900048962 dated 08.10.2018 |

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s S.K. Aagrotechh, (called as the 'Applicant' hereinafter), having GSTIN number 29ADBFS9479D1ZK have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Partnership firm and is a wholesale dealer in edible oils, registered under the Goods and Services Act, 2017. The applicant, as part of their business, manufacture "Pooja Oil", which is primarily a mixture of rice bran
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sesame oil (gingelly oil), coconut oil and mahua oil. A small quantity of fragrance also is mixed only for giving fragrance. Therefore the applicant has sought advance ruling in respect of the following question:

Whether "Pooja oil" can be classified under tariff item 1518 of Schedule-I (taxable at 5%) or Schedule-II (taxable at 12%) of Notification No.01/2017-CT(R) dated 28.06.2017, as amended from time to time?

3. The applicant furnishes some facts relevant to the stated activity:
 - i. The applicant states that for the purpose of manufacture of pooja oil, the oil is not extracted but different edible grade oils (raw materials like rice bran oil, sesame oil, fragrance or essential oils etc.) are procured mixed and blended in appropriate proportions. Fragrance is added as per the requirement of the public.
 - ii. Notification No.1/2017 C T (R) dated 28.06.2017 specifies two different entries for tariff heading 1518, one under entry number 90 of Schedule-I, taxable at 5% GST and the other under entry no.27 of Schedule - II, taxable at 12% GST.
 - iii. These two different entries under different schedules caused the applicant to file the instant application seeking clarification as to which entry is applicable to them and consequently the GST rate on their product.
 - iv. The applicant submits that tariff heading 1518 covers only vegetable fats and oils which could be chemically modified. The entry covers both edible grade and non-edible grade oils and there is no specific exclusion of non-edible grade oils. The product "Pooja Oil", made up of vegetable fats / oils but not animal fats/oils and therefore merits classification under Schedule-I of the Notification supra.
 - v. Tariff heading 1518, under Schedule-II of the said notification covers animal fats & oils and also inedible mixtures of preparations of animal or vegetable fats/oils. The entry under Schedule II is a generic entry and seeks to cover primarily animal fats / oils and includes vegetable fats/oils which are inedible mixtures or preparations. Therefore the "pooja oil" made out vegetable oils merits classification under tariff heading 1518 and gets covered under Schedule-I of said notification, taxable at 5% of GST.
 - vi. The applicant submits that they are entitled to adopt the classification of their product, beneficial to them. In this regard they place reliance on the following judgements of the Hon'ble Supreme Court:
 - a. Share Medical Care Vs. Union of India [2007(209)ELT 321 (SC)]
 - b. HCL Ltd., Vs Collector of Customs, New Delhi [2001 (130) ELT 405 (SC)]

- c. Collector of Central Excise Vs. India Petrochemicals [1997(92) ELT 13 (SC)]

In view of the above, the applicant submits that even if their product "pooja oil" is covered under Schedule-II of the said notification, they are entitled to adopts the classification beneficial to them under Schedule -I of the said notification, taxable at 5% GST.

- vii. The applicant submits that on a similar issue advance ruling has been passed by Andhra Pradesh Authority wherein it is ruled that the product "Energy-G premium" is classified under tariff heading 1518, covered under Schedule-I of the said notification, taxable at 5% GST.

In view of the above, the applicant concludes that their product "pooja oil" is classifiable under tariff heading 1518, gets covered under Schedule-I of Notification No.01/2007-CT (R) dated 28.06.2017 and taxable at 5% GST.

PERSONAL HEARING: / PROCEEDINGS HELD ON 19.11.2018.

4. Sri T.R Venkateswaran, Chartered Accountant and duly authorized representative of the Applicant appeared for personal hearing proceedings held on 19.11.2018, reiterated the facts narrated in their application and submitted copies of certain relevant documents.

5. FINDINGS & DISCUSSION:

5.1 We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri T.R Venkateswaran, Chartered Accountant & authorized representative of the applicant, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts.

5.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 provisions under the KGST Act.

5.1 The applicant seeks advance ruling on the question that *Whether their product "Pooja oil" merits classification under tariff item 1518 and gets covered under entry number 90 of Schedule-I (taxable at 5%.) or Schedule-II (taxable at 12%) of Notification No.01/2017-CT(R) dated 28.06.2017, as amended from time to time.* We proceed to examine the classification of the product "pooja oil" and then the issue of coverage under Schedule-I or II of the said notification and thereby the applicable tax thereon.

5.4 Notification No.1/2017- Integrated Tax (Rate) dated 28.06.2017 (hereinafter called "said notification") at Explanation (iii) to the said notification

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provides that "Tariff item", "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. Further, Explanation (iv) provides that 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, so far as may be, apply to the interpretation of this notification.

5.5 The issue before us to decide is classification of the product "pooja oil". It is an admitted fact that the said product is manufactured by mixing 5 edible oils i.e. rice bran oil, coconut oil, castor oil, mahua oil and Gingely Oil, in an agreed percentage and then blended with fragrance. The process of addition of perfume to the mixture of edible oils converts the said mixture into an inedible mixture.

5.6 The entry at serial number 90 in Schedule I to Notification No. 1/2017-CT(R) dated 28.06.2017 reads as under :

Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516.

The competing entry at Serial number 27 in Schedule II of the same Notification is as under:

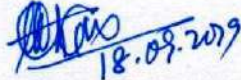
Animal fats and animal oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified of included

Comparison of the two aforementioned entries clearly brings out that an inedible mixture of vegetable oils are specifically mentioned by and covered under Sl. No. 27 in Schedule II. The entry at Sl. No. 90 in Schedule I applies to vegetable oils which have been subject to processes like boiling, oxidation, dehydration, sulphurisation, blowing, polymerization and by heat in vacuum or in inert gas or otherwise chemical modification. The resultant product remains edible despite undergoing the aforementioned processes. However once fragrance has been added to the mixture of several edible oils, the resultant product becomes inedible and entry at Sl. No. 27 of Schedule II specifically covers inedible mixtures of vegetable oils. Therefore the product "pooja oil" finds a very specific entry in Schedule II. Thus it is more appropriately covered under Sl. No. 27 in Schedule II of the said Notification and accordingly taxable at 12% GST.

6. In view of the above, we pass the following

RULING

The "Pooja Oil", classified under tariff heading 1518, being inedible mixture gets covered under entry number 27 of Schedule - II of the Notification No.01/2017-CT (R) dated 28.06.2017, as amended, and hence is taxable at 6% under CGST Act, 6% under KGST Act and 12% under the IGST Act.


18.09.2019

(Harish Dharnia)
Member


(Dr. Ravi Prasad.M.P.)
Member

Place : Bengaluru,
Date : 18.09.2019

To,

The Applicant

Copy to:

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Commissioner of Central Tax, Bangalore West Commissionerate, Bengaluru.

The Asst. Commissioner, LGSTO - 155, Ramanagar.

