

GOA AUTHORITY FOR ADVANCE RULING.

(Constituted under section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and Services Tax Rules, 2017)

BEFORE THE BENCH OF

- (1) Shri. J. K. Meena, Addl Commissioner of Central Tax
(2) Smt. Sarita S. Gadgil, Addl Commissioner of State Tax

Advance Ruling No. GOA/GAAR/1 of 2020-21/531

Name of the Applicant	Springfields (India) Distilleries
Address	H.No 2, Raicho Ambo, Raia Salcete.
GSTIN	30AAOFS2556B1ZI
Date of Application	15/04/2020
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	<p>1. Hand Sanitizer is covered under following HSN Code & rate</p> <p>30049087 – Antihypertensive drugs : Antibacterial formulations not elsewhere specified or included HS Code and Indian Harmonized System Code. Rate of GST is 12%.</p> <p>The Ministry of Consumer Affairs, Food and Public Distribution, in a notification CG-DL-E13032020-218645 has classified Hand Sanitizers under the Essential Commodities Act, 1955 as an essential commodity and thus exempt from GST.</p>
Date of Hearing	17/06/2020
Persons Present for Hearing	Shri Aleixo Sequeria, Partner



See

PROCEEDING

(Under Section 98 of the Goa Goods and Services Tax, Act 2017)

1. The present application has been filed under section 97 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the SGST Act and CGST Act) by **Springfields (India) Distilleries, Raia Salcete** seeking an Advance Ruling in respect of the following question:

1. Hand Sanitizer is covered under following HSN Code & rate:

30049087 – Antihypertensive drugs : Antibacterial formulations not elsewhere specified or included HS Code and Indian Harmonized System Code. Rate of GST is 12%.

The Ministry of Consumer Affairs, Food and Public Distribution, in a notification **CG-DL-E13032020-218645** has classified Hand Sanitizers under the Essential Commodities Act, 1955 as an essential commodity and thus exempt from GST.

BRIEF FACTS

Springfields (India) Distilleries, have their registered office at H.No 2, Raicho Ambo, Raia Salcete and hold GSTIN 30AAOFS2556B1ZL.

The Applicant is a registered partnership firm manufacturing Hand Sanitizers vide Licence No.999, issued by Directorate of Food and Drugs Administration dated 01.04.2020.

Comments from concerned officer were called.

Concerned Officer has offered his comments and are briefed as below:

Hand sanitizers are primarily used for disinfecting / Sanitizing hands. Following entries are found in Notification No.1/2017-Central Tax (Rate) related to hand sanitizers based on the end use of product.



Chapter / Heading / Subheading / Tariff item	Description of Goods	Rate	
		CGST	SGST
3004	Medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale, including Ayurvedic, Unani, homoeopathic siddha or Bio-chemic systems medicaments, put up for retail sale	6%	6%
3003	Medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale, including Ayurvedic, Unani, Siddha, homoeopathic or Bio-chemic systems medicaments	6%	6%
3401 30	Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent	9%	9%
3402	Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 3401	9%	9%
3808	Disinfectants and similar products	9%	9%



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The applicant has referred to HSN code 30049087 in this application. Tariff Item: 3004 refers to medicaments for therapeutic or prophylactic uses. General sanitizer is used as an alternative to wash hands (to maintain hygiene) hence general alcohol-based hand sanitizer without any curative or preventive ingredients may not be considered as a medicament.

Concerned Officer opines that following factors may be considered for classifying said product.

- Curative effect of the product (therapeutic use)
- Preventive effect of the product (prophylactic use)
- Period of usage i.e, to be used for limited period or regularly.
- Product contains curative/preventive ingredients.
- Trade parlance, i.e, how it is known in the market.

Personal Hearing:

Personal Hearing in the matter was extended to the applicant Shri Aleixo Sequeira on 17/06/2020 . Shri Aleixo Sequeira appeared for hearing on 17/06/2020 and made his submissions on each point raised and as mentioned herein above under brief facts. Submission made by Shri Aleixo Sequeira are taken on record.

FINDINGS

The applicant Springfields (India) Distilleries is a registered partnership firm manufacturing Hand Sanitizers vide Lisence No. 999, issued by Directorate of Food and Drugs Administration dated 01.04.2020.

The applicant has asked for Advance ruling on the issue as to classification of the Goods namely “Hand Sanitizer” and rate of GST to be applied. Applicant also seeks opinion on whether Hand Sanitizers supplied by them are classifiable as essential commodity and to be exempt from GST.

Applicant is of the opinion that Hand Sanitizers are covered under HSN 30049087 and to be taxed @12% under GST.



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On going through the submissions made by the applicant and through the provisions of the GST Act, this authority is of the opinion that Hand Sanitizers manufactured by the applicant are of the category of Alcobased hand sanitizers and are classifiable under heading 3808 of HSN to which rate of GST applicable is 18%. As far as exempting hand sanitizers as essential commodity since it is classified as such by Ministry of Consumer Affairs, Food and Public Distribution, this Authority is of the view that Exempted goods are covered by Notification no.2 /2017/- Central Tax (Rate) dated 28/06/2017. Merely classifying any goods as essential commodity will not be the criteria for exempting such Goods from GST.


In view of the above facts and provisions the ruling is given as under:

ORDER

ADVANCE RULING UNDER SECTION 98 OF THE CGST/GGST ACT, 2017.

The ruling so sought by the Applicant is accordingly answered as under:-

Alcohol Based Hand Sanitizers manufactured by the applicant are covered by HSN 3808 and are accordingly taxable at appropriate rate as per schedule entry notified vide Notification No. 1 Central Tax (Rate) dated 28/06/2017.


25/6/20
(J. K. Meena)
Member




25/06
(Sarita S. Gadgil)
Member

Dated: -25/06/2020

Place: - Panaji – Goa

To,

Springfields (India) Distilleries

H.No 2, Raicho Ambo, Raia Salcete,

Margao Goa. 403601.

Copy to

1. The State Tax Officer, Margao Ward, Margao – Goa;
2. The Dy. Commissioner of State Tax, Margao Ward, Margao
3. The Commissioner of State GST, Panaji – Goa;
4. The Commissioner of Central GST, Panaji – Goa;
- ✓ 5. Office file;
6. Guard file.

