



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri J. Laxminarayana, Additional Commissioner (Grade-I) (State Tax)
Sri B. Raghu Kiran, IRS, Joint Commissioner (Central Tax)

A.R.Com/28/2018

Date.24.6.2020

TSAAR Order No.04/2020

(Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order)

1. M/s. Sushi Pet Nutrisciences, Plot No. 1 & 2, No. 2-10-26/3, Sri Sai Surya Enclave, Machhabollarum, Secunderabad, Telangana, (GSTIN No. 36ABWFS7447NIZZ) have filed an application in Form GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules, seeking Advance Ruling with regard to rate of tax in respect of supply of goods viz., 'poultry meal' and 'poultry fat'.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.
4. Brief facts of the case:
The facts, in brief, that were reported by the tax payer in their application are as follows:
 - a. M/s Sushi Pet Nutriscience, is a partnership firm which is engaged in manufacturing/rendering of 'Poultry Meal' and 'Poultry Fat';
 - b. Both these products are used as one of the protein raw material for the manufacturing of animal feed industries, aqua feed industries;
 - c. The major raw material for manufacturing poultry meal and poultry fat is chicken wastages such as chicken legs, chicken head, intestine, feathers, skin etc. which they buy from the chicken stall owners in twin cities and other parts of Telangana State.
 - d. The manufacturing process was detailed as below:
 - (i) The poultry offal is dumped in to the batch cookers through screw conveyer, Cooker operator cook for 30 minutes and dry the

resulting for 4 hours in same cooker, then the resulting material is put in storage bins which is in the semi-finished stage.

- (ii) The semi-finished product contains a high level of fat which will be separated by using a fat press/screw press. Poultry meal coming from screw press will be sent to the hammer mill for making size reductions and then it is passed through a sieve.
 - (iii) The supplement is sent to a blender where anti-oxidants are added to prevent the supplement from oxidation. The supplement is then is packed in HDPE bags and stored for sale. Final product is in brown color. The product contains Minerals, proteins and amino acids and is used as one of the raw ingredients by animal/aqua feed manufactures. It is not fit for human consumption.
 - (iv) The fat oil collected in above process may contain some residual solid particles which is to be separated by filter with filter press. Filtered raw oil which contains a higher level of moisture and phospholipids, is processed in stainless steel reactor to reduce moisture content, phosphoric acid and bleaching earth is added to remove phospholipids contained in oil, Further processing is done in main reactor to reduce free fatty acid (FFA) by heating at 200°C 6 to 8 hours the resulting oil is <5 FFA. Taken to neutralizer tank addition of degum chemical for color improvement and dried again to remove any moisture, filtration is done with candle filter and stored in storage tanks for dispatch to customer. Final product is at ambient temperature, liquid state, Reddish yellow in color. This is used as one of the raw ingredients by animal/aqua feed manufactures and it is not fit for human consumption.
- e. After processing waste materials such as chicken heads, legs, intestine etc. lost essential characteristics of original material and a new product emerged in powder form.
 - f. In r/o “poultry meal” their major customers are aqua/poultry/animal feed manufacturers viz.,
 - a. M/s Mars International India Private Limited.
 - b. M/s NG Feeds Private Limited.
 - c. M/s ABIS Exports India Private Limited.
 - d. M/s Kwaliti Feeds Limited.
 - g. For poultry fat, the major customers are:
 - a. M/s Bharath Luxindo Agri Feeds Private Limited
 - b. M/s ABIS Exports India Private Limited
 - c. M/s Anmol Feeds Private Limited
 - d. M/s NG Feeds Private Limited

5. Questions raised:

With the above background, the applicant sought for ruling with regard to the HSN codes and the rate of tax in respect of “poultry meal” and “poultry fat” supplied by their unit.

6. Contention of the tax payer:

It was stated by the applicant that they are classifying the “poultry meal” under HSN Code 2309 9020 and supplying the same charging ‘nil’ rate of tax. Further, it was stated that they are classifying the by-product “poultry fat” under HSN code of 1501 9000 and supplying the same charging tax at the rate of 12% (6% CGST + 6% SGST/UTGST). In support of the above tax rates, they referred to the decision of the Hon’ble CESTAT, Chennai delivered in the case M/s. Supreme Sugna Foods Co. Ltd., Vs. Commr. Of C.Ex., Coimbatore [reported in 2015 (316) E.L.T. 341 (Tri. - Chennai)].

A technical explanation was also submitted on - Concentrates for compound animal feed for fish (prawn etc.,) as under

The final output i.e., - poultry meal as explained is a product which comes under the category of protein “concentrates”, used as an ingredient for compound animal feed, fish feed. The rational reason for defining it as “concentrate” comes from the process as how poultry meal is produced. In the process of production of poultry meal where the poultry waste like heads, legs, intestine and feathers are pressure cooked and dried under very high temperature, whereby if we use the raw material of chicken wastage of 1000 kilograms,(i.e., legs, heads, intestine and feathers) then the same is further concentrated with the process as briefed above and the output of that process is the final product called poultry meal which will be around 250 to 300 kilos depending on the quality of chicken wastage. The product of poultry meal is produced by concentration of the soft poultry waste offal such as intestine, heads, legs, feathers using the process as explained with the removal of water and moisture the same is placed as concentrate for compound animal feed, fish feed (prawns etc.) which is as per HSN code 2309 2090

Compounded animal feed is a mixture of product of vegetable or animal origin in their natural state fresh or preserved or products derived from the industrial processing of organic or inorganic substances, whether or not containing additives for oral feeding in the form of complete feed. Concentrates provide essential extra energy and protein. In our product of poultry meal which is a concentrate contains proteins, some fat, minerals and amino acids. The animal feed manufacturers use our product as per their standard formula in their manufacturing process of compound animal feed so that the feed will become whole some or complete feed which will help improve the health of the animal.

It was also referred the definition of Concentrate feeds. AS PER FAO (Food and agriculture Organization) as under:

Feeds may be broadly classified as concentrate and roughages, depending on their composition. Concentrate are feeds that contain high density of nutrients, usually low in crude fiber content (less than 18% of dry matter) and high in total digestible nutrients. Roughages are feeds with low density of nutrients with crude fiber content over 18% of dry matter including most fresh and dried for ages and fodders

Concentrates maybe high in energy referred as to energy concentrates such as cereals and milling by products, or high in protein, with over 20% crude protein referred to as protein concentrates. Concentrates may be fed in raw or milled forms as individual feeds (sometimes referred to as straights) or maybe blended or formulated into balance ratios for particular production purposes

7. Personal Hearing:

The Authorised representative of the unit namely Sri. G. Subramanyam Setty, Chartered Accountant attended the personal hearing held on 20.02.2020.He reiterated the facts mentioned above and sought for clarifications in respect of the queries raised in their application.

8. Discussion & Findings:

8.1. We have carefully gone through the submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing. The applicant sought for advance ruling with regard to the tax rate in respect of ‘poultry meal’ (commonly known as ‘animal feed supplement’ in the trade) and ‘poultry fat’ manufactured by them.

8.2. The Central Government, on the recommendation of the GST Council, issued Notification bearing No. 01/2017-CT (Rate) dated 28.06.2017 & 02/2017-CT (Rate) dated 28.06.2017 prescribing the rates of tax in respect of specified goods basing on their classification. Similarly Notification bearing No.02/2017-CT (Rate) dated 28.06.2017 was issued by the Government

providing for exemption from tax in respect of goods listed there under. In terms of explanation (iii) and (iv) appended to these notifications, 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.

8.3. Thus, while the rate notifications under GST law prescribe the rate of tax in respect of supply of goods and services, in order to interpret these notifications for the purposes of levy of GST, one has to read the same along with the first schedule (including the Section and Chapter Notes and General Explanatory Notes) of the Customs Tariff Act, 1975 (“Tariff”).

8.4. A perusal of the manufacturing process of “poultry meal”,(furnished by the applicant as ‘Annexure’) reveals that the main raw material for the poultry meal is chicken waste such as chicken legs, chicken head, intestines, feathers etc. The manufacturing process involves cooking of chicken remnants, drying by subjecting to high temperature. Later, the same will be powdered to form the end product ‘poultry meal’. It is the submission of the applicant that the raw material i.e. chicken waste will lose its original characteristics after these processes. The applicant also stated that the product so manufactured will be used by the end user as animal/poultry/aqua feed. Thus they opine that their product falls Chapter Heading No. 2309 under the category of ‘concentrates for compound animal feed’.

8.5. It is pertinent to note that in the Chapter Note appended to Chapter No. 23 of the first schedule to the Customs Tariff Act, 1975 lays down that *Heading No.2309 includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, other than vegetable waste, vegetable residues and by-products of such processing.* Taking into consideration and the description of the goods listed in chapter heading No. 2309, it can be concluded that the said chapter heading covers animal feeds which are used for feeding the animals. In the case on hand, the applicant categorically stated in their application that the product ‘poultry meal’ manufactured by them would be used for further manufacture of ‘animal feed’. Thus the product manufactured by the applicant evidently used as raw material/ input in the manufacture of animal feed. In this view of the matter we hold that the product manufactured is not animal feed, but a raw material for ‘animal feed’. There is distinction between the product ‘animal feed’ and raw material for animal feed. This view finds support by the decision of the Larger Bench of the Hon’ble Supreme Court in the case *Commissioner of Customs (Import), Mumbai v. Dilip Kumar* [2018 (361) E.L.T. 577] wherein it was laid down that inputs for animal feed are different from the animal feed. In this view of the matter, we hold that the product manufactured by the applicant cannot be classified under Chapter Heading No. 2309 as opined by the applicant.

We find that the Chapter heading No. 2301 is the other one which can accommodate the product manufactured by the applicant. The extract of the said chapter heading is as follows:

Tariff Item	Description of goods
2301	FLOURS, MEALS AND PELLETS, OF MEAT OR MEAT OFFAL, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES, UNFIT FOR HUMAN CONSUMPTION; GREAVES

2301 10	Flours, meals and pellets, of meat or meat offal; greaves :
2301 10 10	Meat meals and pellets (including tankage)
2301 10 90	Others (including greaves)

As can be seen from the above, chapter heading No. 2301.10 covers Flours, meals and pellets, of meat or meat offal whereas sub-heading No. 2301.10.10 covers meat meals and pellets (including tankage). We opine that the product 'poultry meal' manufactured by the assessee which is manufactured out of residue meat can be appropriately classifiable under Chapter sub-heading No. 2301 10 90 which covers the 'others' category.

8.6. Further we find that entry No. 102 of the Exemption Notification No 2/2017-CT (Rate) dated, 28.06.2017 (as amended) exempts tax in respect of certain feeds falling under chapter heading Nos. 2301, 2302, 2308, 2309. The same is reproduced hereunder:

Sl. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of Goods
102	2301, 2302, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than rice bran]

As can be seen, the supply of animal feed, poultry feed and cattle feed including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake are covered under the said entry. The aforesaid entry covers different types of products which are basically in the nature of feeds. This entry does not apply to raw material/inputs like fish meals or meat cum bone meal (MBM) falling under heading 2301. As stated above, the product manufactured by the applicant is not a feed but raw materials for feed and therefore the same are not covered under the domain of the above entry. Consequently we hold that the product manufactured by the applicant is not exempted from tax as opined by the applicant. This view is fortified by the CBIC Circular bearing No. 80/54/2018-GST, dated 31-12-2018.

8.7. We find that the disputed product (classifiable under chapter sub-heading number 2301.10.90) attracts GST rate of 5% (2.5 % CGST + 2.5% SGST) under sl. No. 103 of the Schedule-1 of the Not. No. 01/2017-CT (R), dated 28.06.2017 (as amended).

8.8. As regards 'poultry fat', it is noticed that the said product emanates as a by-product during the process of chicken remnants for manufacture of the primary product viz., 'poultry meal'. It is noticed that Schedule to the Customs Tariff has two entries covering the said product. These are as follows:

Tariff Item	Description of goods
0209	Pig fat, free of lean meat and poultry fat, not rendered or otherwise extracted, fresh, chilled, frozen, salted, in brine, dried or smoked
0209 10 00	Of pigs
0209 90 00	Other :
1501	Pig fats (including lard) and poultry fat, other than that of heading 0209 or 1503

1501 10 00	Lard
1501 20 00	Other pig fat
1501 90 00	Other

As can be seen from the above, Tariff Heading No. 0209 covers 'poultry fat' *not rendered/otherwise extracted* and Tariff Heading No. 1501 covers 'poultry fat' other than that of Tariff Heading No. 0209. In the case on hand, the applicant submitted that the 'poultry fat' supplied by them is extracted as a by-product during the process of their main product 'poultry meal'. As such we opine that the product 'poultry fat' supplied by the applicant merits to be classified under Tariff item No. 1501 90 00.

8.9. Further, we notice that as per entry No. 19 of Schedule-II of Not. No. 01/2017-CT (R) dated 28.06.2017 (as amended), 'poultry fat' attracts 12% GST (6% CGST + 6% SGST/UTGST).

8.10. Accordingly we hold that the product "poultry meal" manufactured and supplied by the applicant attracts GST rate of 5% (2.5 % CGST + 2.5% SGST) under sl. No. 103 of the Schedule-1 of the Not. No. 01/2017-CT (R), dated 28.06.2017 (as amended) and the product "poultry fat" supplied by the applicant attracts 12% GST (6% CGST + 6% SGST/UTGST) in terms of Not. No. 01/2017-CT (R) dated 28.06.2017 (as amended).

Advance Ruling

9. In view of the observations stated above, the following rulings are issued with regard to the issues raised by the applicant:

Issue raised	Ruling
1. HSN Code and rate of tax in respect of supply of 'poultry meal'.	The product "poultry meal" is classifiable under Chapter Sub-Heading No. 2301 10 90 of the first schedule to the Customs Tariff Act, 1975 and the supply of the same attracts GST rate of 5% (2.5 % CGST + 2.5% SGST) under Sl. No. 103 of the Schedule-1 of the Not. No. 01/2017-CT (R), dated 28.06.2017 (as amended).
2. HSN Code and rate of tax in respect of supply of 'poultry fat'.	The product "poultry fat" is classifiable under Chapter Sub-Heading No. 1501 90 00 of the first schedule to the Customs Tariff Act, 1975 and the supply of the same attracts 12% GST (6% CGST + 6% SGST/UTGST) vide entry No. 19 of the Schedule-II of Not. No. 01/2017-CT(R) dated 28.06.2017 (as amended)

Sd/- J. Laxminarayana
ADDL. COMMISSIONER (State Tax)

Sd/- B. Raghukiran
JOINT COMMISSIONER (Central Tax)

To
M/s. Sushi Pet Nutriscience,
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Copy submitted to
1. Commissioner (State Tax) for information.

Copy to:
1. The Joint Commissioner (State Tax), Abids,
2. The Assistant Commissioner (ST)
Malkajgiri-I Circle, Saroornagar Division.