


<p>GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.</p>	
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ADVANCE RULING NO. GUJ/GAAR/R/19/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2018/AR/33)

Date: 02.07.2020

Name and address of the applicant	:	M/s. Adarsh Plant Protect ltd., 604, GIDC Estate, V.U.Nagar, Vithal Udyognagar, Gujarat-388001.
GSTIN of the applicant	:	24AABCA6650Q1ZE
Date of application	:	29.06.2018
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(e) Determination of the liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	18.06.2020 (through Video Conferencing))
Present for the applicant	:	Shri Ketanbhai

BRIEF FACTS

The applicant M/s. Adarsh Plant Protect ltd. vide their application for Advance Ruling has submitted that they are engaged in manufacturing of Sprayer Pumps and Adarsh Clean Stove and Adarsh Clean Cook Stove (Community size). They have stated that the sprayer pumps manufactured by them fall under Chapter-84 having HSN code: 8424 and all the sprayer pumps manufactured by them are manually operated except model ANM-516 (which is battery operated). The applicant has enlisted the details of the sprayer pumps (manually operated) as well as that of the stoves manufactured by them along with their HSN code as under:

Sr.No.	Name of product	Product code	HSN Code
01.	Sprayer pump	ANP-116/B	8424
02.	Sprayer pump	ANP-116/P	8424
03.	Sprayer pump	ANB-216	8424
04.	Sprayer pump	ANO-316	8424
05.	Sprayer pump	ANH-416	8424
06.	Sprayer pump	AFS-105	8424
07.	Sprayer pump	ARC-205	8424
08.	Sprayer pump	ARD-60	8424
09.	Sprayer pump	AFB-413	8424
10.	Stoves	ASD-20G	7321
11.	Stoves	ASDM-20	7321
12.	Stoves	Adarsh Clean Stove(Domestic)	7321
13.	Stoves	Adarsh Clean Cook Stove (Community size)	7321

The applicant has submitted that they are collecting GST of 12% (6% SGST + 6% CGST) on the above items and paying the same to the Government. They have stated that under the VAT Act, no tax was levied on sprayer pumps as the same

was used for agricultural purpose. They have also stated that the above items are taxable now but

the said items are purely used manually for only agriculture purpose, hence the said items should be treated as agriculture implements manually operated and the rate of tax should be NIL. He has requested to give advance ruling on the same.

DISCUSSION & FINDINGS

2. We have considered the issue involved, on which advance ruling is sought by the applicant, relevant facts, the applicant's interpretation of law as well as the arguments/discussions made by their representative Shri Ketanbhai at the time of personal hearing.

3. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 GGST Act.

4. The applicant has submitted a list of 9 sprayer pumps (all manually operated) along with their production code and HSN code i.e. SH 8424 as well as a list of 4 stoves (all manually operated) along with their production and HSN code i.e. SH 7321 and have asked the following question for the purpose of advance ruling:

"The applicant are collecting GST of 12% (6% SGST + 6% CGST) on their items namely Sprayer pumps (manually operated) and stoves and paying the same to the Government. As per their view, the said items are used manually for only agriculture purpose so the rate of tax should be NIL. Please give advance ruling on the same"

5. First of all, we are required to examine as to what sprayer pumps and stoves are. As per definition: (i) Sprayer pumps are mechanical devices designed to generate a pressure differential to drive spray fluid from a storage tank, through system plumbing, and out to the spray nozzle(s). (ii) Stove is an apparatus for cooking or heating that operates by burning fuel or using electricity. The applicant has submitted that the said items are used manually for agriculture purpose only. Also, from the details submitted by the applicant, it is seen that the sprayer pumps manufactured and supplied by them are used by them to spray pesticides on the field crops whereas the stoves are used for mixing pesticides. On going through the sample invoices submitted by the applicant, it is found that they are (i) classifying 'Sprayer pumps' (manually operated) under Sub-heading 8424 (sample invoice No.440 dated 15.03.2018) and (ii) classifying 'stoves' under Sub-heading 7321 (sample invoice No.T/082/18-19 dated 11.06.2018) and paying GST of 12% (6% SGST + 6% CGST) during their supply. Further, when the representative of the applicant was asked during the course of personal hearing about the fuel used for operating the stoves manufactured by the applicant, he stated that wood was used as fuel in the said stoves.

6. The applicant has submitted pamphlets containing details of the products manufactured and supplied by him. The details of some of their products are described hereunder:

Sl.No.	Name of the item	Description	Uses
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01.	Adarsh Knapsack Sprayer (ANP-116) (Sprayer pump)	<ul style="list-style-type: none"> • 16 litre tank moulded from HDPE. • Sturdy construction and easy operation. • Adjustable shoulder straps. • Develops sufficient and continuous pressure. • Automatic agitation. • Right and left hand operation. • 110 cm. Long delivery hose and spray lance 60 cm. Long with cone mist spray nozzle. 	Most versatile sprayer for all field crops.
02.	Adarsh Outer Cylinder (ANO-316) (Sprayer pump)	<ul style="list-style-type: none"> • 16 litre tank moulded from HDPE. • Pressure vessel fitted outside the centre makes operation smooth and remains in a stable position on the operator's back. • Discharge line 110 cm. long delivery hose. • Adjustable shoulder straps. • Right and left hand operation. • 110 cm. Long delivery hose and spray lance 60 cm. Long with cone mist spray nozzle 	Unique sprayer for Agricultural field crops like paddy, wheat, vegetables.
03.	Adarsh Foot Sprayer (AFS-105) (Sprayer pump)	<ul style="list-style-type: none"> • 8 metre long delivery hose. • 2 meter long suction hose with strainer. • Develops sufficient pressure to operate with two discharge lines with any length of hose. • Suitable for spraying with Hyjet spray gun to spray on tall trees. • 90 cm. Long lance with adjustable nozzle. 	Multipurpose sprayer for both small and large scale spraying on field crop in Orchards, Apple, Mango, Lemon and tall trees.
04.	Adarsh Seed Dresser (ASD-20G) (Stove)	<ul style="list-style-type: none"> • 600 mm height x 310 mm dia. 20 kg. Capacity drum made from special quality G.I. sheet. • MS handle to rotate the drum manually. • MS baffles. • Rotation: Suitable for 40-60 RPM for seed dressing @ 5 min. Is recommended. Consume less time and better seed dressing. • Easy to operate and handle. 	Most versatile for all field crops.

7. The next thing required to be examined is as to whether the products manufactured by the applicant have been correctly classified and whether the tax paid by them is correct or otherwise. In order to determine the tax liability on the supply of 'Sprayer pumps' and 'Stoves' by the applicant, we will be required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 containing the sub-headings as well as the rates of Central Tax GST applicable to various goods, which are covered under 6 schedules, as under:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI

Further, Explanation (iii) and (iv) of the said Notification reads as under:

(iii) "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 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975

(51 of 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.

8. On going through the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), it is observed that there is no specific entry for 'Sprayer pumps'. However, looking at the definition of 'sprayer pumps' as well as to the uses of the product mentioned in the pamphlets as well as in the submission of the applicant, wherein it is mentioned that it is used as a sprayer on the agricultural field crops, it would fall under Sub-heading 8424, which reads as under:

8424 MECHANICAL APPLIANCES (WHETHER OR NOT HANDOPERATED) FOR PROJECTING, DISPERSING OR SPRAYING LIQUIDS OR POWDERS; FIRE EXTINGUISHERS, WHETHER OR NOT CHARGED; SPRAY GUNS AND SIMILAR APPLIANCES; STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES

8424 10 00 - Fire extinguishers, whether or not charged

8424 20 00 - Spray guns and similar appliances

8424 30 00 - Steam or sand blasting machines and similar jet projecting machines

- Other appliances :

8424 81 00 -- Agricultural or horticultural

8424 89 -- Other :

8424 89 10 -- Painting equipment, including electrostatic -phosphating and powder coating equipment

8424 89 20 --- Industrial bellows

8424 89 90 --- Other

8424 90 00 - Parts

On going through the above details, we find that 'Sprayer pumps' are specifically covered under Tariff item no.84248100 (agricultural or horticultural) based on their use.

9. Further, on going through the entry of the above item in the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 (hereinafter referred to as the said notification), we find that the same appears at entry No.325 in Schedule-III of the said notification, on which the applicable rate of GST is 18% (9% SGST + 9% CGST). The same reads as under:

S.No.	Chapter/Heading/ Subheading / Tariff item	Description of goods
325.	8424	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines [other than fire extinguishers, whether or not charged]

10. Notification No: 01/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No.27/2017-Central Tax (Rate) dated 22.09.2017, wherein the following amendment has been made in respect of entry no.325 of Schedule-III of said notification:

“(ix) in S. No. 325, in column (3), for the words “ other than fire extinguishers, whether or not charged”, the words, “ other than fire extinguishers, whether or not charged and Nozzles for drip irrigation equipment or nozzles for sprinklers” shall be substituted;”

Notification No:01/2017-Central Tax(Rate) dated 28.06.2017 has been further amended vide Notification No.41/2017-Central Tax (Rate) dated 14.11.2017 wherein the following amendment has been made in respect of entry no.325 of Schedule-III of said notification:

“(lxxxii) in S. No. 325, for the entry in column (3), the entry “Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines [other than Nozzles for drip irrigation equipment or nozzles for sprinklers]” shall be substituted;”

11. Notification No:01/2017-Central Tax(Rate) dated 28.06.2017 has been further amended vide Notification No.06/2018-Central Tax (Rate) dated 24.01.2018 (effective from 25.01.2018) wherein the following amendment has been made in respect of entry no.325 of Schedule-III of said notification.

“(xi) in S. No. 325, for the entry in column (3), the entry “Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines [other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers]” shall be substituted;”

Further, the following entry has been inserted vide Notification No: 06/2018-Central Tax (Rate) dated 24.01.2018 (effective from 25.01.2018) in Schedule-II of Notification No:01/2017-Central Tax(Rate) dated 28.06.2017 which reads as under:

((xiii) after S. No. 195A, and entries relating thereto the following serial number and the entries shall be inserted, namely:

S.No.	Chapter/Heading/ Subheading / Tariff item	Description of goods
195B	8424	Sprinklers; drip irrigation system including laterals; mechanical sprayers”;

12. In view of the above, it is observed that vide Notification No: 06/2018-Central Tax (Rate) dated 24.01.2018, the word ‘mechanical sprayers’ has been inserted vide Entry No.195B in Schedule-II of Notification No:01/2017-Central Tax(Rate) dated 28.06.2017, whereas Entry No.325 in Schedule-III of the said notification has been amended to the effect that the words ”(other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers]” have replaced the earlier entry “[other than Nozzles for drip irrigation equipment or nozzles for sprinklers]”. It can therefore be concluded that the product ‘sprayer pumps’ falling under Tariff item No.84248100 would be classified under Entry No.325 of Schedule-III of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 up to 24.01.2018 and the GST applicable during this period would be 18% (9% SGST + 9% CGST). However, with effect from 25.01.2018, the said product would be classified under Entry No.195B of Schedule-II of the said notification and the GST applicable would be 12% (6% SGST + 6% CGST).

13. Further, the applicant has also submitted that they are manufacturing and supplying stoves of product code ASD-20G, ASDM-20, Adarsh Clean Stove (Domestic) and Adarsh Clean Cook Stove (Community size). Also, when the representative of the applicant was asked during the course of personal hearing about the fuel being used by the applicant in these stoves, he stated that the fuel being used was wood. On going through the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), it is observed that stoves are classified at Sub-heading 7321 which reads as under:

7321 STOVES, RANGES, GRATES, COOKERS (INCLUDING THOSE WITH SUBSIDIARY BOILERS FOR CENTRAL HEATING), BARBECUES, BRAZIERS, GAS-RINGS, PLATE WARMERS AND SIMILAR NON-ELECTRIC DOMESTIC APPLIANCES, AND PARTS THEREOF, OF IRON OR STEEL

- Cooking appliances and plate warmers:

7321 11 -- For gas fuel or for both gas and other fuels :

7321 11 10 --- Cookers and kitchen stoves

7321 11 20 --- Other stoves

7321 11 90 --- Other

7321 12 -- For liquid fuel:

7321 12 10 --- Cookers and kitchen stoves

7321 12 20 --- Other stoves

7321 12 90 --- Other

7321 19 -- Other, including appliances for solid fuel:

7321 19 10 --- Cookers and kitchen stoves

7321 19 90 --- Other stoves and appliances

-- Other appliances :

7321 81 00 -- For gas fuel or for both gas and other fuels

7321 82 00 -- For liquid fuel

7321 89 -- Other, including appliances for solid fuel:

7321 89 10 --- Clay tandoor (oven with iron or steel body and earthen grates)

7321 89 90 --- Other

7321 90 00 - Parts

On going through the above details, we find that 'stoves' manufactured and supplied by the applicant would be classified under Tariff item No.73218990.

14. Further, on going through the entry of the above item in the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017, we find that the same appears at entry No.183 in Schedule-II of the said notification on which the applicable rate of GST is 12% (6% SGST + 6% CGST). The same reads as under:

S.No.	Chapter/Heading/ Subheading / Tariff item	Description of goods
183	7321	Kerosene burners, kerosene stoves and wood burning stoves of iron or steel.

It can, therefore, be concluded that the product 'stoves' falling under Tariff item No.73218990 would be classified under Entry at 183 of Schedule-II of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 and the GST applicable would be 12% (6% SGST + 6% CGST).

15. The applicant have mentioned in their question for advance ruling that the products manufactured and supplied by them are used manually for only agricultural purpose and therefore the rate of tax should be NIL. In this regard, we have also gone through the provisions and entries of the exemption Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 and found that the above items manufactured and supplied by the applicant do not find mention under any of the entries of the said notification.

16. In view of the discussions as detailed above, we rule as under –

R U L I N G

(1) The product 'Sprayer pumps' (manually operated) manufactured and supplied by M/s. Adarsh Plant Protect ltd. are classifiable under Tariff item No.84248100 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). Applicability of GST rate on the said product would be 18% GST (9% SGST + 9% CGST) upto 24.01.2018 and 12% GST (6% SGST + 6% CGST) with effect from 25.01.2018 as per Notification No:01/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time) issued under the CGST Act, 2017.

(2) The product 'Stoves' manufactured and supplied by M/s. Adarsh Plant Protect ltd. are classifiable under Tariff item No.73218990 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). Applicability of GST rate on the said product would be 12% GST (6% SGST + 6% CGST) as per

Notification No: 01/2017-Central Tax (Rate) dated 28.06.2017 issued under the CGST Act, 2017.

- (3) The aforementioned products of the applicant do not find mention under any of the entries of the exemption notification No.02/2017-Central Tax (Rate) dated 28.06.2017 issued under the CGST Act, 2017.

(SANJAY SAXENA)

(MOHIT AGRAWAL)

MEMBER

MEMBER

Place: Ahmedabad

Date: 02.07.2020.