

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560009**

Advance Ruling No. KAR ADRG 58/2020

Date : 16-12-2020

Present:

1. Dr. Ravi Prasad M.P.
Additional Commissioner of Commercial Taxes Member (State Tax)
2. Sri. Mashhood Ur Rehman Farooqui,
Joint Commissioner of Central Tax, Member (Central Tax)

1.	Name and address of the applicant	M/s Bengaluru Co-operative Milk Union Ltd., Ground Floor, No.8, Bengaluru Diary Premises, Dr. M H Mari Gowda Road, Bengaluru - 560 029
2.	GSTIN or User ID	29AAAAB0974H1ZS
3.	Date of filing of Form GST ARA-01	12.08.2020
4.	Represented by	Sri N Lokesh Reddy, C A & Authorised Representative
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Tax, Bangalore South Commissionerate (RANGE ASD4)
6.	Jurisdictional Authority - State	LGSTO-40, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act and Rs.5,000/- under KGST Act vide CIN IDBI20072900043768 dated 03.07.2020.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER 98(4) OF THE KGST ACT, 2017**

M/s Bengaluru Co-operative Milk Union Ltd., Ground Floor, No.8, Bengaluru Diary Premises, Dr. M H Mari Gowda Road, Bengaluru - 560 029 (hereinafter referred to as "the applicant") and having a GSTIN 29AAAAB0974H1ZS, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of the KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and KGST Act.



2. The Applicant projects themselves as a registered society under Co-operative Act 1959 in Karnataka. They are engaged in processing of milk and milk products. They also manufacture flavoured milk & classify the same under tariff heading 0402 99 90, taxable at 5%. They learnt that few of the industry partners have reclassified the said product "flavoured milk" from heading 0402 99 90 to 2202 99 30. Thus the applicant filed the instant application seeking advance ruling in respect of the following question:

Whether the Flavored Milk is liable to be classified under HSN 0402 99 90 or under 2202 99 30 or under any other Chapter?

3. **Admissibility of the application** : The applicant filed the instant application, in relation to the classification of the product "flavoured milk" and sought advance ruling in respect of the question on the issue covered under Section 97(2)(a) of the CGST Act 2017.

4. The applicant manufacture & supply the impugned "flavoured milk" with brand name "Nandini", which is owned by M/s Karnataka Co-operative Milk Producers Federation Ltd.,(KMF) against whom an offence case is pending before the DGGI, Bengaluru. Thus a personal hearing was granted on the question of admissibility of the instant application.

PERSONAL HEARING: / PROCEEDINGS HELD ON 08.10.2020.

5. Sri. Lokesh Reddy, Chartered Accountant & duly authorised representative of the applicant appeared for personal hearing proceedings held on 08.10.2020 & submitted their arguments with regard to admissibility of the instant application. The applicant vide their letter, received in this office on 13.11.2020, submitted additional documents in support of their claim of admissibility of the application.

FINDINGS & DISCUSSION:

6.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Lokesh Reddy, C.A. & authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

6.2 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.



6.3 The Applicant sought advance ruling in respect of the classification of the product "Flavoured Milk" and the rate of GST thereon. It is an undisputed fact that the applicant supplies the impugned product under the brand name "Nandini", which is owned by M/s KMF against whom an offence case is pending before DGGI, Bangalore.

6.4 The applicant vide their letter dated 13.11.2020, submits the following arguments, in support of admissibility of the instant application.

- a. The issue raised in the application i.e. classification of "Flavoured Milk" is not pending / decided in any proceedings, in the case of applicant, under any provisions of the CGST / KGST Act 2017.
- b. The applicant and M/s KMF ('Nandini' brand owner) are two different legal entities having separate registrations under Co-operative Societies Act as well as under GST Acts.
- c. Primary Co-operative Societies are the share holders of the applicant, but not the KMF, the owner of 'Nandini' brand. However the applicant is share holder in the KMF.
- d. The administration of the applicant organization is done by the management under the supervision of Board of Directors, elected from each of the co-operative societies, who are the share holders of the applicant, an addition to 5 nominated directors.

The applicant, in view of the above, submits that M/s KMF doesn't have control over their organization either in the form of share holding or through management control and thereby prays that their application is admissible and maintainable.

6.5 The applicant themselves admitted that they are one of the share holders of M/s KMF, who are the owners of 'Nandini' brand and against whom an offence case is pending before DGGI, Bengaluru on classification of flavoured milk. Thus it is very clear that the applicant being the share holder in M/s KMF becomes part of M/s KMF as they also supply the product 'flavoured milk' under the 'Nandini' brand and hence is bound to oblige the conclusion of the proceedings in this regard. Hence the pendency of the proceedings automatically applies to the applicant also. Therefore the instant application is liable for rejection, under first proviso to Section 98(2) of the CGST Act 2017.



7. In view of the foregoing, we pass the following

RULING

The application is rejected as "inadmissible", in terms of first proviso to Section 98(2) of the CGST Act 2017.


(Dr. Ravi Prasad M.P.)

Member,
Karnataka Advance Ruling Authority
Place : Bengaluru - 560 009

Date : 16-12-2020

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-40, Bengaluru.
5. Office Folder.



(Mashhood Ur Rehman Farooqui)

Member
MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

