

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU
ROOM NO.206, 2ND FLOOR, PAPJM BUILDING,
NO.1, GREAMS ROAD, CHENNAI-600 006**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER
SECTION 98(4) OF THE TNGST ACT, 2017.**

Members present are:

Shri R.Gopalsamy, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt N.Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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Advance Ruling No. 25 /AAR/2023 Dated: 20.06.2023

- 1. Any appeal against this Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, under Sub-section (1) of Section 100 of Central Goods and Service Tax Act / Tamil Nadu Goods and Service Tax Act 2017("the Act" in short) within 30 days from the date on which the ruling sought to be appealed against is communicated.*
- 2. In terms of Section 103(1) of the Act, this Advance ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-*
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;*
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.*
- 3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
- 4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*
- 5. At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.*

GSTIN Number, if any / User id		33ACYPV6634M1ZK
Legal Name of Applicant		M/s. V.S. Trading Company
Registered Address / Address provided while obtaining user id		No. 71/122-A, Palaniappa Colony, Annathanapatty, Salem - 636 002.
Details of Application		Form GST ARA – 001 Application Sl.No.08/2022/ARA dated 10.02.2022.
Concerned Officer		Centre: Salem Commissionerate State: Annathanapatty Assessment circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Trading
B	Description (in brief)	
Issue/s on which advance ruling required		Classification of any goods or services or both
Question(s) on which advance ruling is required		(a) Classification of goods i.e. Tapioca flour obtained by crushing the dried roots, and remnants of tapioca roots/tubers. (b) Applicability of Notifications issued under the provisions of Act in respect of goods falling under entry No.78 and tariff item 1106 of Part A of exempted goods, and tariff item 1106 in Sl.No.59 of Part C in Schedule I of the said Act. (c) Determination of the liability to pay tax in respect of the said goods, tariff No.1106 as mentioned in Sl.No.78 of Part A of Exempted goods, and Sl.No.59 of Part C of 1 st Schedule to the Act. (d) Whether such trader/dealer is required to be registered?

M/s. V.S. Trading Company, No. 71/122-A, Palaniappa Colony, Annadhanapatty, Salem – 636 002 (hereinafter called the 'Applicant') is registered under the Act with GSTIN 33AAACJ7230N1ZJ. They have filed an application in Form GST ARA - 01 seeking Advance Ruling on the following questions:

(a) Classification of goods i.e. Tapioca flour obtained by crushing the dried roots, and remnants of tapioca roots/tubers.

(b) Applicability of Notifications issued under the provisions of Act in respect of goods falling under entry No.78 and Tariff item 1106 of Part A of

Exempted goods, and tariff item 1106 in Sl.No.59 of Part C in Schedule I of the said Act.

(c) Determination of the liability to pay tax in respect of the said goods, tariff No.1106 as mentioned in Sl.No.78 of Part A of Exempted goods, and Sl.No.59 of Part C of First Schedule to the Act.

(d) Whether such trader/ dealer is required to be registered.

2.0 The Applicants have stated, *inter alia*,

- that they are registered dealers under the CGST/TNGST Acts 2017 and they are engaged in trading of purchase and sale of Tapioca Flour within and outside the State;
- that the said product is manufactured by their suppliers from inferior tapioca tubers procured from the farmers;
- better quality of tapioca tubers procured from farmers is used for manufacture of sago and starch;
- the inferior quality of tapioca tubers are dried in the yard, and then crushed into flour, and marketed;
- the said tapioca flour is chiefly used for cattle feed and very few quantity is also used for preparation of gum;
- the said goods are supplied in 50 Kgs/ 70 kgs Jute/Gunny bags, and not in smaller unit containers;
- the supplier of tapioca flour are not charging tax in the bill of supply issued by them, as they are not using any brand name or trade name;
- the supply of Tapioca flour is exempted goods under the CGST Act, IGST Act and respective SGST Act 2017, vide Notification No.02/2017 Central Tax (Rate) dated 28.06.2017/and Notification.No.02/2017- Integrated Tax (Rate) dated 28.06.2017.

2.1. The Applicants have also quoted the entry in Part-A of exempted goods mentioned in Sl.No.78, and Heading/Tariff item which is detailed below:

With effect from 22.09.2017- (N.No.28/2017-CT(R) dt 22.09.2017)

Flour, of the dried leguminous vegetables of heading 0713 (Pulses) (other than guar meal 1106 10 10 and guar gum refined split 1106 10 90), of Sago or of roots or tubers of heading 0714 or of the products of Chapter 8 i.e. of tamarind, of Singoda, mango flour, etc., (other than those put up in unit container and,-

(a) Bearing a registered brand name; or

(b) Bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been forgone voluntarily subject to certain conditions.

For the period 01.07.2017 to 21.09.2017- (N.No.02/2017 CT(R) dt 28.06.2017)

Flour, of the dried leguminous vegetables of heading 0713 (pulses) (other than guar meal 1106 10 10 and guar gum refined split 1106 10 90), of Sago

or of roots or tubers of heading 0714 or of the products of Chapter 8 i.e. of tamarind, of singoda, mango flour, etc. (Other than those put up in unit container and bearing a registered brand name.

Therefore, the applicant had argued that supply of such goods i.e. tapioca flour without registered brand name is exempt from tax as the said goods are covered in the above Heading and entry in Part-A.

3.0 The State jurisdictional authority, the Assistant Commissioner (ST), Annathanapatty Assessment Circle vide their letter Ref.No.Rc.148/2022/A4, dated 24.02.2022 has submitted that there are no proceedings pending against the applicant. They had further submitted their comments on the subject which can be summarized as under:

- Tapioca root is referred to as "Casava root" and also it is known as Mandioca, Manioc and Manihot. Botanically the plant is known as "Manihot esculenta";
- The Tapioca roots after peeling the skin are crushed into milk for required consistency. Out of this, two main products are produced. One is Sago and another is starch.
- Sago is in the form of dried pearls. Starch is in the form of Powder which has got more adhesive property. The residue is normally known as "Thippi". The remaining residue is known as "Kappi" which is normally rich in fibres and tissues of tapioca.
- According to schedule I entry no 98, tariff item no.1903 of CGST is taxed at 5% [notification No.1/2017-Central Tax (Rate), dated 28th June 2017]. Entry no.98, tariff item no.1903 speaks about tapioca in the form of flakes, grains, pearls, and siftings or in similar forms or substitutes for tapioca prepared from of flakes, grains, pearls, siftings or in similar forms. Form the above description, it is understood that the item is wholly used as a Tapioca substitute.
- the applicant is claiming that his product is classifiable under HSN code 1106 and that it will fall under the entry no.78 of schedule II for exempted goods. But, the words in the entry 1106 are "*Meal and powder of sago or of roots or tubers of heading 0714*" and the description of HSN code 0714 is "*Manioc, arrowroot, sale, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh or chilled, dried; Sago pith.*"
- Manioc is nothing but tapioca and pith is nothing but the spongy white tissue around the pulp of tapioca and sago pith is vernacularly known as "Kappi and Thippi"
- From the invoice submitted by the applicant along with the application for Advance Rulings, it is ascertained that the applicant has made outward

supplies of "Tapioca flour". Tapioca flour which is in the form of siftings can be used as a substitute for tapioca.

- Since the taxpayer is involved in outward supplies of Tapioca flour which is a substitute for tapioca rich in starch, the commodity will fall under the tariff item no.1903 attracting rate of tax of 5% and will not fall under the tariff item no.1106.

4.0 Personal hearing was held in digital platform on 16.03.2022. The Authorized Representative (AR) of the Applicant, Thiru. A. Jeyaseelam, General Secretary, Salem City Chamber of Commerce and Thiru. D. Ganapathi Subramanian, GST Practitioner, appeared for the hearing virtually and reiterated their submissions. AR stated that they are buying and selling tapioca flour. AR stated that their product falls under HSN 1106. AR also referred to the Ruling of the Tamil Nadu Advance Ruling Authority in the case of Mahalakshmi Store. AR stated that the flour traded by them is used for manufacture of gum and that the flour is sold unbranded and is exempted by classifying under HSN 1106. The Applicant was asked to furnish the following documents:

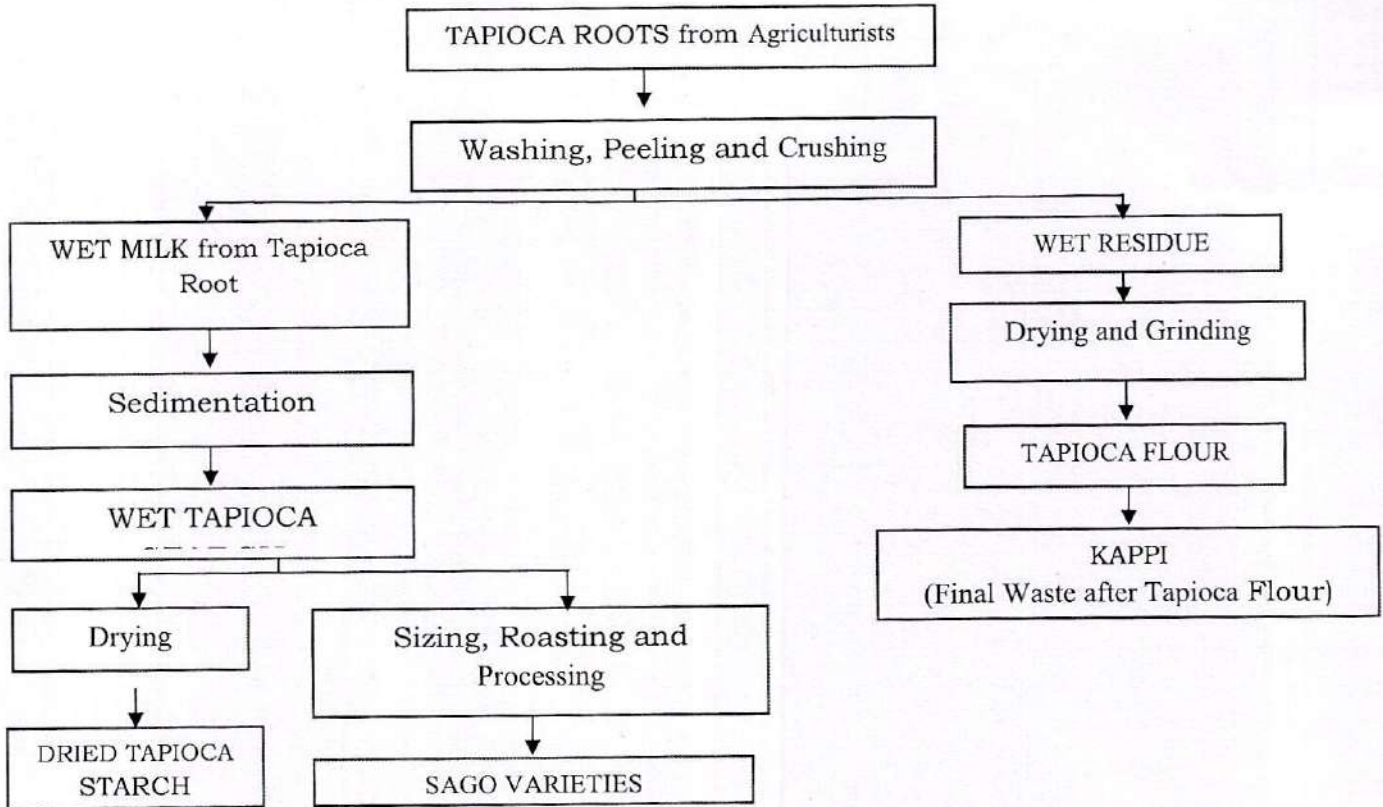
- i. Write up on:
- ii. Manufacturing process
- iii. Class of sellers
- iv. Invoice copy of sale/purchase
- v. They also requested to be heard in person.

4.1 Subsequently, the applicant submitted the manufacturing process of the product (Tapioca /Cassava flour) which can be summarized as below:

Tapioca or cassava is one among the important root crops grown by agriculturists. In general, the processing of tapioca roots is used for obtaining the following graded products.

- (i) Tapioca Wet Starch (Taxable)
- (ii) Tapioca Starch (Taxable)
- (iii) Sago (Sabudhana) – used for human consumption taxable (in the form of pearl rice, obtained after roasting & sizing) for common use i.e. for preparation of Payasam & Papped (edible) The above goods are the fine products of tapioca roots used for human consumption (sago) and as well as industrial use (Starch). Apart from the above taxable products, certain residues of waste of starch namely wet tapioca waste is obtained, which is dried and crushed into tapioca flour which is used for animal feed as well as manufacturing of adhesives. The end waste product obtained after grinding the dried tapioca flour is called kappi which is also marketable for livestock feed.

Flow chart for the above manufacturing process.



4.2 The Applicant has also submitted that he is primarily a dealer in purchase and sale of tapioca flour (falling under HSN Code 1106) without any brand name. The tapioca flour sold by the Applicant is unbranded, with no further process and blending, packed in 70Kgs gunny bags without any registered brand name.

4.3 Another Personal Hearing was held on 11.11.2022, as there was a change in the constitution of Members. In this Personal Hearing which was conducted virtually, the AR reiterated the submissions already made and explained the process briefly. AR furnished additional submission by way of a booklet containing copies of application, manufacturing process of product, invoice copies of purchase/sales, copies of relevant case laws and notification, copy of order no.55/ARA/2019 dated 23.12.2019 in respect of M/s Mahalakshmi Store etc. The AR has explained about their product and also displayed sample of their product and raw material in sealed plastic sachets.

4.4 In response to the query by the members as to whether any Laboratory Test has been done on their product to determine its constituents, AR replied in the 'negative'. Further on 17.11.2022, Applicant stated in a separate e-mail that the said product is not covered under Food Safety and Standards Authority of India

(fssai) and therefore, the question of test report does not arise as there is no necessity or demand for testing the said product in this line of trading. The applicant also submitted photographs of the sample products which were displayed during the personal hearing vide their letter received by the on 16.11.2022.

5.0 We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, submissions/Additional submissions made during personal hearing and thereafter the comments of the Jurisdictional Authority. The Applicant is before us seeking ruling on the following questions:

- (a) Classification of goods i.e. Tapioca flour obtained by crushing the dried roots, and remnants of tapioca roots/tubers.*
- (b) Applicability of Notifications issued under the provisions of Act in respect of goods falling under entry No.78 and Tariff item 1106 of Part A of Exempted goods, and tariff item 1106 in Sl.No.59 of Part C in Schedule I of the said Act.*
- (c) Determination of the liability to pay tax in respect of the said goods, tariff No.1106 as mentioned in Sl.No.78 of Part A of Exempted goods, and Sl.No.59 of Part C of First Schedule to the Act.*
- (d) Whether such trader/ dealer is required to be registered.*

5.1 The applicant, Tvl. V.S. Trading Company are registered dealers under GST Acts, 2017 with GSTIN: 33ACYPV6634M1ZK. As per their registration profile, the commodity dealt with by the applicant is Tapioca and substitutes therefore prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms (HSN: 1903).

5.2 They have applied for advance ruling seeking clarification on the commodity viz., Tapioca flour obtained by crushing the dried roots and remnants of tapioca roots/tubers, which is classified under tariff item 1106.

In the statement of facts and in the written submissions they have furnished the following details.

- a. Tapioca flour is manufactured from inferior tapioca tubers procured from the farmers. Better quality tapioca tubers procured from farmers are used for manufacture of sago and starch. Normally the inferior quality of tapioca tubers are dried in the yard, and then crushed into flour, and marketed. The said tapioca flour is chiefly used for cattle feed. The tapioca flour is also used for preparation of gum.

b. While explaining the manufacturing process in the form of Flow chart and also during the physical hearing conducted on 11.11.2022, the applicant and their AR have contended that, the product christened as tapioca flour is being prepared by drying and grinding the wet residue which is derived after extracting milk by crushing tapioca roots procured from agriculturalists.

5.2 The relevant entries related to the commodities Tapioca and 'Tapioca Flour' as per Notification No. 1/2017, CT (R), dated 28.06.2017, is as detailed below;

Tariff Item	Description of goods	Rate of Tax (CGST+ SGST)
0714	Manioc, Arrowroot, Salep, Jerusalem artichokes, Sweet potato and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced in the form of pallets; sago pith	Nil
1106	Flour, meal and powder of the dried leguminous vegetables of heading 0713, of sago or of roots or tubers of heading 0714 or of the products of Chapter 8, Other than those put up in unit container and bearing a registered brand name. Flour, meal and powder of the dried leguminous vegetables of heading 0713, of sago or of roots or tubers of heading 0714 or of the products of Chapter 8, put up in unit container and bearing a registered brand name.	5%

5.3 The applicant has contended that the commodity dealt with by them falls under the tariff head 1106 with 'Nil' tax rate, as the same is being sold without any brand name.

5.4 Therefore, it is to be decided whether the impugned commodity for which advance ruling is sought, falls within the commodity description of tariff head 1106.

5.5 The tariff heading 1106 includes Flour, meal and powder of the dried leguminous vegetables of heading 0713 and of sago or of roots or tubers of heading 0714. Therefore, it is clear that this HSN is related to flour directly prepared by grinding dried leguminous vegetables, tubers without involving any other processing.

5.6 On the other hand, the product dealt with by the applicant is only a residue obtained during the course of starch manufacturing process from tapioca and not the flour directly prepared from tapioca root tuber.

5.7 As per the submissions put forth by the applicant, the impugned product is prepared by drying and grinding the wet residue which is nothing but the fibrous substances retained in the sieve, while extracting/filtering wet milk from grinded tapioca roots. Hence, it is understood that, segregating fibre/residue is an integral part of the starch manufacturing process. Though, the applicant and other dealers in similar trade line described it as tapioca flour, the commodity dealt with by the applicant more clearly fits into the specific description 'Residues of starch manufacturing and similar residues, (HSN 2303.10).

5.8 Moreover, as per the dealers contention also this product is not fit for human consumption and it is actually used as animal feed and in manufacturing of adhesives. But, the goods classified under tariff head 1106 are meant for human consumption.

5.9 In view of the above discussions, the product dealt with by the applicant is classifiable under the tariff head 2303.10 – Residues of starch manufacturing and similar residues, taxable @ 5%.

5.10 Further, as per the clarification rendered through circular No. 80/54 /2018-GST, dated 31st December, 2018, a number of raw materials such as fish meal falling under heading 2301, meat and bone meal also falling under heading 2301, oil cakes of various oil seeds, soya seeds, bran, sharps, residue of starch and all other goods falling under headings 2302, 2303, 2304, etc are used to manufacture/formulation of, aquatic feed, animal feed, cattle feed, poultry feed etc.

These raw materials/inputs cannot be directly used for feeding animal and cattle. The Larger Bench of the Hon'ble Supreme Court in the Commissioner of Customs (Import), Mumbai vs. Dilip Kumar [2018 (361) E.L.T 577] has laid down that inputs for animal feed are different from the animal feed. Therefore, the commodity is not classifiable under HSN 2309 as cattle feed which is exempted to tax. **HSN Code 2309** would cover only such products, which in the form supplied, are capable of specific use as food supplement for animals and not capable of any general use. Therefore, the commodity dealt with by the applicant is classifiable under the following tariff heads;

Tariff Head	Description of goods	Rate of Tax
2303.10	Residues of starch manufacture and similar residues	5%

5.11 In respect of the question No.4, in terms of **Section 22 of the CGST Act**, read with relevant provisions of SGST Act, the applicant is liable to be registered, if his aggregate turnover in a financial year exceeds the prescribed turnover under GST Law.

6. In view of the above facts, we rule as under:

RULING

(a) Classification of goods i.e. Tapioca flour obtained by crushing the dried roots, and remnants of tapioca roots/tubers.

Reply: The product is classifiable under HSN 2303.10 "Residues of Starch manufacture and similar residues" liable to tax at 2.5% under CGST Act and 2.5% under SGST Act vide Sl.No.104 of Schedule I of Notification No.II(2)/CTR/532(d-4)/2017/G.O.Ms.No.62, CTR, dated 29-6-2017.

(b) Applicability of Notifications issued under the provisions of Act in respect of goods falling under entry No.78 and Tariff item 1106 of Part A of Exempted goods, and tariff item 1106 in Sl.No.59 of Part C in Schedule I of the said Act

and

(c) Determination of the liability to pay tax in respect of the said goods, tariff No.1106 as mentioned in Sl.No.78 of Part A of Exempted goods, and Sl.No.59 of Part C of First Schedule to the Act.

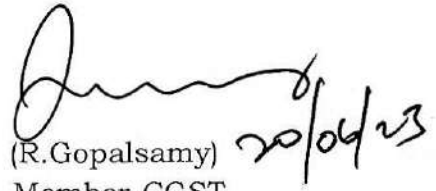
Reply: The above said Notification is not applicable to the Applicant.

(d) Whether such trader/ dealer is required to be registered.

Reply: As discussed in para 5.11 the applicant is liable to be registered subject to the conditions prescribed under section 22 of the GST Act.


(N.Usha) 20.6.2023
Member-SGST




(R.Gopalsamy) 20/06/23
Member-CGST

To

M/s V.S.Trading Company,
No. 71/122-A, Palaniappa Colony,
Annathanapatty, Salem, 636002

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Principal Secretary/Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai-600 005

Copy to:

1. The Commissioner of GST & Central Excise,
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Bibikulam, Madurai - 625 002.
2. The Assistant Commissioner (ST),
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No.1/7, Pitchards Road, Hasthampatty,
Salem 636 007.
3. Master File/ Spare-2

