



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Sri. K.Ravi Sankar, Commissioner of State Tax (Member)
2. Sri. B. Lakshmi Narayana, IRS, Joint Commissioner of Central Tax (Member)

AAR No.11/AP/GST/2023 dated: 01.12.2023

1	Name and address of the applicant	M/s. Zuari Farmhub Limited D.No. 40-1-62, 3 rd Floor Nagas Hafeez Plaza, Benz Circle, Opp. Eenadu Office, Vijayawada, A.P., 520010
2	GSTIN	37AABCZ4502E1ZK
3	Date of filing of Form GST ARA-01	23.06.2023
4	Personal Hearing	03.08.2023
5	Represented by	R. Kushal Choudhary
6	Jurisdictional Authority - Central	Autonagar Circle, Vijayawada-II Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	a) Classification of any goods or services or both

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Zuari Farmhub Limited (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

3.1 M/s Zuari Farmhub Limited (hereinafter referred to as applicant") is engaged in manufacturing, trading and marketing of chemical Fertilisers, water soluble Fertilisers, seeds, pesticides and supply of allied services, all used in agriculture. The Applicant operates from 23 States / UTs in India. Applicant is having GST Registration number 37AABCZ4502E1ZK.

3.2 The Applicant, as a process procures various raw materials generally known as micronutrients, such as Zinc, Manganese, Ferrous and so on, by way of imports or domestic purchases and prepares a mixture, to make it a micronutrient Fertiliser, by way of blending, as approved by Ministry of Agriculture of the particular State. It is understood that the mixture varies based on the soil culture. Currently, the Applicant is in the process of manufacturing two different sets of products, the composition of which is detailed in tabular format herein below:

Product 1: Mangala Borosan	Composition	Product 2: Mangala G1	Composition
Items:		Items:	
Zinc Sulphate Monohydrate (ZnSO ₄ .H ₂ O)	32.50%	Zinc Sulphate Monohydrate (ZnSO ₄ .H ₂ O)	17.00%
Iron (II) sulphate (FeSO ₄)	28.00%	Iron (II) sulphate (FeSO ₄)	13.00%
Manganese (II) sulphate (MnSO ₄)	08.00%	Manganese (II) sulphate (MnSO ₄)	04.00%
Borax	04.00%	Borax	11.00%
Dolomite	20.00%	Dolomite	20.00%
Soap stone powder	07.50%	Soap stone powder	22.50%
		Magnesium sulphate (MgSO ₄)	10.00%
		Copper Sulphate (CuSO ₄)	02.50%
Total	100.00%		100.00%

4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

1. Whether the products referred supra i.e., Mangala Borosan and Mangala G1 are Classifiable under Chapter Heading 3105 as Fertilisers?
2. If the answer to the question no. 1 is in negative, what would be the appropriate? Classification of the said micronutrient Fertilisers?

On Verification of basic information of the applicant, it is observed that the applicant is under State jurisdiction i.e, Autonagar Circle, Vijayawada- II Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the Central Jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Applicant's Interpretation of Law:

Applicant's submissions are broadly summarised based on the following:

- A. Products in question (Mangala Borosan and Mangala G1) are nothing but Fertilisers.**
- B. Most appropriate classification of the Fertilisers will be under chapter 31 of the First Schedule to The Customs Tariff Act, 1975.**
- C. Resorting to classification under Chapter 38 which provides for classification of miscellaneous chemical products, and includes preparations of chemical industry or allied industries, would be inappropriate.**

Applicant's detailed submissions with respect to each of the above pointers, is provided in the ensuing paragraphs:

A. Products in question (Mangala Borosan and Mangala G1) are nothing but Fertilisers:

- 1.1. *According to Section 2(h) of Fertiliser (Control) Order, 1985 "Fertiliser" means any substance used or intended to be used as a fertiliser of the soil and/or crop and specified in Part A of Schedule I and includes a mixture of Fertiliser and special mixture of Fertilisers, provisional Fertiliser, customised Fertiliser, Bio-Fertilisers specified in Schedule III and Organic Fertilisers specified in Schedule IV and non-edible deoiled cake fertilisers specified in Schedule V.*

Where, mixture of Fertiliser is defined in Section 2(n) of the FCO, 1985 as "mixture of Fertilisers" means a mixture of Fertilisers made by physical mixing two or more fertilisers with or without inert material in physical or granular form and includes a mixture of NPK fertilisers, a mixture of micronutrient fertilisers and a mixture of NPK with micronutrient Fertilisers;

- 1.2. Basis the above definitions, and further reading of Sl. No. 1(f) of Part A of Schedule I to the above referred Order, products of the Applicant will be called as "Micronutrient Fertilisers", For the reasons cited supra, the products in question, will qualify and have to be considered as Fertilisers.
- 1.3. In addition to above, it must be noted that the products in question are specifically, wholly and solely designed to improve the plant growth, yield and quality of produce and will be supplied as "Micronutrient Fertiliser". In this regard, copy of packaging that will be used to sell the products, is also enclosed as Annexure-1, which also establish that, said product is understood in the market as "Fertilisers".

- 1.4. The products sold by the Applicant will only be used by the agriculturists/farmers as a "micronutrient fertiliser", which also confirms that end use of the products in question is "being used as fertiliser".
- 1.5. On basis of above grounds, Applicant is of the view that said the products in question are nothing but "fertilisers".

B. Most appropriate classification of Fertilisers will be under chapter 31 of the First Schedule to The Customs Tariff Act, 1975.

- 1.6. At the outset, the Applicant invites attention to the provisions of Chapter 31 to the First Schedule to the Customs Tariff Act, 1975, which prescribes for the classification of "Fertilisers". Further, relevant entry that provides for mineral or chemical Fertilisers (including other Fertilisers) is 3105. The relevant extract from Chapter 31 is reproduced hereunder:

HSN	Disclosures
3105	Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers ; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg
3105 90	- Other
3105 90 90	--- Other

- 1.7. Further, in the scheme of classification i.e., First Schedule to Customs Tariff Act, 1975, where classification of "Fertilisers" is provided for in a separate Chapter i.e., Chapter 31 of the Tariff Act, Applicant for reasons detailed below is of the view that, products manufactured and supplied as "Micronutrient Fertilisers" is classifiable under Chapter 31 and in specific 8-digit heading being 3105 9090. Detailed reasoning is as below:

- 1.7.1. The product proposed to be manufactured and supplied are "Fertilisers" to be used in agriculture;
- 1.7.2. Multiple Chemicals (Micronutrients) to be used in manufacture of proposed products are covered in Sl. No. 1(f) of Fertiliser Control Order (1985), which specifies necessary technical information for each chemical and mixtures thereto that can be used to manufacture a Fertiliser;
- 1.7.3. Applicant draws attention of this Authority to Note 6 of Chapter 31, which reads as follows: "For the purposes of heading 3105, the term "other Fertilisers" applies only to products of a kind used as Fertilisers and containing, an essential constituent, at least one of the fertilising elements nitrogen, phosphorous or potassium".

- 1.7.4. In the instant case, products manufactured by the Applicant though does not involve direct application of nitrogen, phosphorous or potassium (N, P, K, as they are referred to in the chemical terminology), it is relevant to take note that, in the process of application of the product by the end user, one of the trace elements, viz., nitrogen gets emanated, with help of which i.e., nitrogen, it becomes possible to deliver the metal ions or micronutrients to the plant system.
- 1.7.5. In this regard, Applicant is also submitting a certificate from an independent laboratory, which also confirms that proposed products, when manufactured using multiple chemicals and put to use as Fertilisers, will emanate nitrogen as referred in Para above. Copy of certificate from independent authority confirming the same is enclosed as Annexure 2 to this application.
- 1.7.6. Therefore, though not directly, in the mixture of chemicals (micronutrients), one of the trace elements, viz., Nitrogen is most certainly produced / emanates therein, when put to use, thus clearly making it Fertilizer for the purposes of classification under HSN 3105 9090 - as referred in Note 6 to Chapter 31 of the Customs Tariff Act, 1975. Therefore, the same would be most appropriately classifiable under HSN 3105 9090.
- 1.7.7. Further, the said fact has been accepted by various tribunal decisions, which confirms that micronutrients used as Fertilisers are classifiable under Chapter 31 and in specific 3105 9090. Details of ruling along with relevant extracts is provided below for immediate reference:
- (a) In the case of CIBA India Ltd. Versus Commissioner of Customs, Chennai - 2009 (237) E.L.T. 207 (Tri. -Chennai);
- (b) Commissioner of Customs, Chennai Versus SLV Fertichem - 2018 (363) E.L.T 847 (Tri. -Chennai).
- 1.8. Relevant extract of the ruling referred in (a) supra is as below:
- ".....The imported item contains Ethylene Diamine Tetra-acetic Acid (EDTA) which is a chelating agent and also contains nitrogen, zinc, manganese and iron. There is no dispute that it is used as a Fertiliser. As per Note 6 to Chapter 31 of the CETA, 1985, the term "other Fertilisers" applies only to products of a kind used as Fertilisers containing, as an essential constituent (emphasis applied) at least one of the fertilizing elements nitrogen, phosphorus and potassium. The department has relied upon clarification issued by the Regional Fertiliser Control Laboratory, Chennai under cover of letters dated 30-10-2006 and 4-1-2007 that the products are micronutrient Fertilisers under the Fertiliser Control Order and incidentally contained small quantities of nitrogen because of the chemical composition and cannot be claimed as primary source of nitrogen, to hold that nitrogen is not an essential constituent so as to classify the goods under Chapter 31.*

However, we note that the International Institute of Biotechnology and Toxicology (IIBT) has certified on 19-12-2006 that during the process of supply of potential micronutrients for the plant growth, once the micronutrients are delivered at the plant system EDTA breaks out resulting in elemental nitrogen which further helps to promote the plant growth and that without nitrogen, it is not possible to deliver the metal ions or micronutrients to the plant system. This certificate was placed by the appellants before the authorities below. Further, reliance placed by the Revenue on the specific exclusion of separate chemically defined compounds from Heading 3105.90 in the HSN Explanatory Notes (the EDTA chelate is separate chemically defined compound) is also misplaced for the reason that HSN Explanatory Notes to Chapter 29 clearly state that separate chemically defined compound containing other substances deliberately added during or after their manufacture are excluded from Chapter 29 and the product in dispute contains zinc/manganese/iron which is deliberately added.

In the light of the above discussion, we hold that the imported item falls for classification under CTH 3105.90 of the Customs Tariff Act, 1975 as micronutrient and not under CTH 29.22, -----".

- 1.9. Upon reading the relevant chapter notes, relevant entry of the chapter and upon placing the reliance on the judgements cited supra, Applicant understands that said product is eligible for classification as Fertiliser under Chapter 31 of First Schedule to the Customs Tariff Act, 1975.

C. Resorting to classification under Chapter 38 which provides for classification of miscellaneous chemical products, and includes preparations of chemical industry or allied industries, would be inappropriate.

- 1.10. At the outset, Applicant herein brings to the attention of this Authority that the product in the instant case is being made of multiple chemicals and is being looked up as preparations of chemical industry and resort to classification under Chapter 38, in specific heading 3824, which provides for classification of chemical products and preparations of chemical industry or allied industries is also considered in various fora. The relevant extract from Chapter 38 is reproduced hereunder:

- 1.11.

HSN	Disclosures
3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included
3824 9	- Other
3824 99 00	-- Other

1.12. Given the extract, it is identifiable that the said Chapter is providing a miscellaneous/generic description of all mixtures which are not classifiable under any other chapter. As stated supra from Para 2.1 to 2.9 the products in question are clearly classifiable under Chapter 31, specifically under 3105 90 90 and hence resort to Chapter 38 and in specific heading 3824 would be incorrect and inappropriate.

1.13. The above is further justified by reading Rule 3(a) of General Rules of Interpretation of First Schedule to the Customs Tariff Act, 1975 which provides for the classification of any goods should be under the heading which provides for more specific description over general description i.e., "Fertilisers" as compared to preparations of chemical or allied industries. Relevant entry of the general rules of interpretation if reproduced below for immediate reference:

3. When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

"(a) The heading which provides the most specific description shall be preferred to headings providing a more general description."

1.14. Applying above rule, it is clearly evident that Chapter 31 provides a more specific description of products in question vis-à-vis a general description under Chapter 38, Hence classification under Chapter 31 is most appropriate.

2. Basis the reading of above facts and extracts of the judgements cited supra, Applicant is of the view that products proposed to be manufactured and sold are classifiable under Chapter 31 of Customs Tariff Act, 1975 and in specific would bear 8-digit code as 3105 9090.

2.1. Assuming that, the classification to be adopted for the products referred supra is 3105 9090, rate of GST would be applicable as tabulated below:

Sl. No	Chapter / Heading / Subheading / Tariff Item	Description of Entry	Schedule and Rate of GST
182D	3105	Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg; other than those which are clearly not to be used as Fertilisers	Schedule I – 5% (CGST – 2.5% and SGST – 2.5% or IGST – 5%)
45	3105	Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers;	Schedule III – 18% (CGST – 9% and

		goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, which are clearly not to be used as Fertilisers.	SGST - 9% or IGST - 18%)
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- 2.2. From the above table, two things emerge i.e., chemicals or minerals used as Fertilisers, will be classified under Schedule I to the Notification No. 01/2017 - Central Tax (Rate) dated 28.06.2017 read with relevant State Rate Notification and taxable at 5% GST. Whereas, if such chemicals or minerals cannot be used as Fertilisers, then such items will be classified under Schedule III to the said notifications and taxable at the rate of 18% GST.
- 2.3. In this backdrop, where Applicant's products sold and used, as Fertilisers, in agriculture, the said products will be classifiable under Schedule I to the above referred Notifications and taxable at the rate of 5% GST.

The applicant additional submission:

The applicant are subsidiary of Zuari Agro Chemicals Limited, an Adventz Group Group, involved in trading and marketing of chemicals fertilisers, water soluble fertilisers, seeds, pesticides and supply of allied services, all used in agriculture. The Applicant operates from 23 States/UTs in India.

Alternate classification would be Chapter 28 as Micronutrients- To reiterate, we submit that the most appropriate classification of the products would be under Heading 3105 90 90, given that it fulfils all the following tests of classification, explained during the personal hearing:

- i) Trade parlance test
- ii) End use test
- iii) Technical meaning test
- iv) Functional test
- v) Condition of goods at the time of supply test
- vi) Dictionary / legal meaning test

However, if not under Heading 3105 90 90, the product should be alternatively classified under Chapter 28- as Micronutrients, as questioned by your goodselves, during the personal hearing, in which regard, our submissions are as follows:

Assuming but not admitting that your goodselves opine that the product is not classifiable under Heading 3105 90 90, given that the product is nothing but a mixture of chemicals, we herewith submit that the product would then be classifiable under Chapter 28 as " Micronutrients ". The relevant details from the GST rates notification-viz.,. Notification no.1/2017 dated 28.06.2017 is as follows:

Sl.No	Chapter/Heading /Subheading/ Tariff Item	Description of Entry	Schedule and Rate of GST
56	28 or 38	Micronutrients, which are covered under serial number 1 (g) of Schedule 1 Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under the Fertilizer Control Order, 1985	Schedule II- 12 % (CGST-6% and SGST- 6 % or IGST- 12%

The applicant product is nothing but a blend/mixture of micronutrients and that it is as listed in sl.no. 1 (g) of Schedule I, Part (A) of FCO 1985, it would merit classification under the above entry if not under Heading 3105 90 90 of the Customs Tariff Act. Hence, the alternate classification would be as indicated in the table supra.

6. Personal Hearing:

The proceedings of Personal Hearing were conducted on 03.08.2023, for which the authorized representative, R. Kushal Choudhary, attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application in light of the facts and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for Advance Ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

Basing on the above minute details, the following point emerges:

Upon scrutiny of the subject product, it is imperative to highlight its divergence from the category of micronutrient blends. Rather, its composition is distinctly characterized by a fusion of inorganic chemicals. The subject product doesn't fall under the category of Micronutrients, which are covered under serial number 1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985. The distinctive attribute serves as the basis for its categorization under Tariff Item 28332990, a classification substantiated by findings in pertinent literature. The prevailing evidence strongly indicates that the product's primary essence resides in its sulphate composition.

The determination to classify the product under 28332990 is fortified by a meticulous examination of relevant scholarly works. In contrast to its characterization as a blend of micronutrients, the product unequivocally comprises inorganic chemicals. This classification aligns seamlessly with the delineated characteristics in the relevant code, accentuating the importance of its predominantly sulphate-centric constitution. This classification not only mirrors the

inherent qualities of the product but also ensures precise alignment within the regulatory framework.

In summary, the product's classification under 28332990 is substantiated by its composition, as expounded in existing literature. The absence of micronutrient blends and the prevalence of inorganic chemicals, specifically sulphates, underscore its appropriateness for placement within this specific classification. This thorough assessment facilitates a nuanced understanding of the product's nature and contributes to its compliance with regulatory standards.

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Whether the products referred supra i.e., Mangala Borosan and Mangala G1 are classifiable under Chapter Heading 3105 as Fertilisers?

Answer : **NO**

Question: If the answer to the question no. 1 is in negative, what would be the appropriate classification of the said micronutrient Fertilisers?

Answer : **2833 29 90 (Under Schedule III- 18 % (CGST-9% and SGST- 9 % or IGST-18%)**

Sd/- B. Lakshmi Narayana
Member
Central Tax

Sd/-K.Ravi Sankar
Member
State Tax

//t.c.f.b.o//


Deputy Commissioner (ST)
Registrar
Authority for Advance Ruling
O/o. Chief Commissioner (State Tax)
Andhra Pradesh, Vijayawada.

To

M/s Zuari Farm hub Limited, D.No. 40-1-62, 3rd Floor Nagas Hafeez Plaza, Benz Circle, Opp. Eenadu Office, Vijayawada, A.P., 520010 **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Auto nagar Circle, Vijayawada-II Division **(By Registered Post)**
2. The Superintendent, Central Tax, CGST Benz Circle- Range, Vijayawada Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.