THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009

Advance Ruling No. KAR ADRG 71/2019
Dated: 23rd September, 2019

Present:

1. Sri. Harish Dharnia,
   Addl. Commissioner of Central Tax .... Member (Central Tax)

2. Dr. Ravi Prasad M.P.
   Joint Commissioner of Commercial Taxes .... Member (State Tax)

1.	Name and address of the applicant	M/s Chrochemie Laboratory Pvt. Ltd., No.101, Model Export Bhavan, 14th Cross, 2nd Stage, Peenya Industrial Area, Bengaluru 560058
2.	GSTIN or User ID	29AAFCC0285K1ZF
3.	Date of filing of Form GST ARA-01	28.09.2018
4.	Represented by	Sri G. Shivadass, Advocate
5.	Jurisdictional Authority – Centre	Commissioner of Central Tax, Bangalore North West Commissionerate.
6.	Jurisdictional Authority – State	LGSTO-075, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of 1. Rs.5,000-00 under CGST Act vide CIN CNRB18092900349546 dated 28.09.2018 2. Rs.5,000-00 under KGST Act vide CIN CNRB18092900341339 dated 28.09.2018

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s Chromachemie Laboratory Private Limited, (called 'applicant' hereinafter), having GSTIN number 29AAFCC0285K1ZF, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 & KGST Act 2017 read

with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in FORM GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a private limited company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

> Whether Entry No. 80 in Schedule II to the Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended) is applicable for import as well as supply of "Prepared Laboratory Reagents / Pharmaceutical Reference Standards (PRS)" attracting a levy of Integrated Tax at the rate of 12% or Entry No.453 to Schedule III attracting a levy of Integrated Tax at the rate of 18%?

3. The applicant furnishes some facts relevant to the stated activity:

a. The applicant states that they are a science based organisation conceptualized to cater to the growing analytical and regulatory requirement of the Pharmaceutical Industries and to provide solutions to the new challenges in separations and purifications faced in the Pharmaceutical and Research Institutions worldwide. With the State of the Art Research and Development Centre established at Bangalore, the applicant is a leading organisation engaged in new product development for addressing the growing challenges in the analysis and separation of pharmaceutical, biopharmaceutical and food industries.

b. The applicant inter-alia imports Pharmaceutical Reference Standards (hereinafter also referred to as "PRS") from various official pharmacopeias like US Pharmacopoeia (USP), European Pharmacopoeia (EDQM), British Pharmacopoeia (BP) and supplies them to all major pharmaceutical companies in India like Sun Pharmaceuticals Ltd., Torrent Pharmaceuticals Ltd., Lupin Ltd., Matrix Laboratories Ltd., Ranbaxy Ltd., Dr.Reddy's, Aurobindo Pharmaceuticals Ltd., etc.

c. PRS is in the nature of Prepared Laboratory Reagent and is a substance of known purity which is intended to be used exclusively for a specified analytical calibrating and referencing purposes. PRS is not used for detection or diagnosis and is not to be used as a drug as clearly stated on the label or accompanying certificate or literature.

d. PRS is a reference analytical sample provided by the official pharmacopoeias required to be used by the pharmaceutical manufacturers to confirm their product quality standards in conformity with the respective monographs prescribed. These official reference standards are global in nature and are required to be used by drug manufacturers to ensure that the quality of the medicines produced by them are in conformity with the respective monographs prescribed by these official pharmacopoeias. The drug manufacturing companies use these PRS in their laboratory tests on all drug substances for determining the purity of medicine and identification and quantification of pharmaceutical impurities.

e. The applicant states that presently, at the time of import, the applicant is classifying PRS as "Prepared laboratory Reagent" and have classified the same under Tariff Entry 3822 00 90 of the Customs Tariff Act, in line with the decision of the Hon'ble CESTAT, Bangalore in the matter which is reported in LGC Promochem India Pvt. Ltd. v. Commissioner of Customs and Service Tax, Bangalore [2016(340) ELT 406 (Tri.-Bang)]. This decision is upheld by the Hon'ble Supreme Court of India and reported in 2018(360) ELT A173 (SC).

f. The applicant submits that the classification of PRS under Tariff item 3822 00 90 is undisputed and the present application has not been filed for clarification with regard to the classification of PRS.

g. As mentioned supra, the applicant imports PRS classifying it under Tariff item 3822 00 90 of the Customs Tariff Act from various official pharmacopoeias and supplies it to major pharmaceutical companies in India while adopting the classification under the same Tariff Item 3822 00 90.

h. In the facts of the present case, the issue under consideration, according to the applicant, is the applicability of rate of tax on import and supply of the Prepared Laboratory Reagent classifiable under Tariff Item 3822 00 90, in terms of the Rate Notification.

i. The applicant submits that the only entry in the Rate Notification which covers the goods falling under Chapter Heading 3822 being "Diagnostic Kits and Reagents" is Entry No.80 of Schedule II, which provides for the rate of GST at 12%. The relevant entry reads as follows:

Schedule II- 12%		
S.No.	Chapter/Heading/ Sub-heading/ Tariff Item	Description of Goods
80	3822	All diagnostic kits and reagents

j. In the alternative, Entry No.453 to Schedule III, a residuary entry, provides applicable rate of GST @ 18% on all goods that are not specified in Schedule I, II, IV, V, V or VI. The relevant entry reads as follows:

Schedule III- 18%		
S.No.	Chapter/Heading/ Sub-heading/ Tariff Item	Description of Goods
453	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI

k. In the above factual matrix, the applicant seeks clarity on whether the PRS classifiable under Tariff Item 3822 00 90 shall be covered under Entry No.80 of Schedule II to the Notification No.1/2017- Integrated Tax (Rate) dated 28.06.2017 (as amended) which covers "all diagnostic kits and reagents" falling under Chapter 3822, and this subject to 12% rate of Integrated Tax. This application is being filed under the apprehension that the PRS imported

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and supplied by the applicant could be treated by the department as falling under Entry No.453 of Schedule III to the Notification No.1/2017 – Integrated Tax (Rate) dated 28.06.2017 (as amended) which covered goods of any Chapter which are not specified in Schedule I, II, IV, V or VI and consequentially subject to higher rate of tax at 18%.

4. Regarding the grounds in support of the understanding of the applicant, that the imports as well as supply of Pharmaceutical Reference Standards under Tariff Item 3822 00 90, the applicant states as under:

4.1 Chapter 38 of the Customs Tariff Act, 1975 provides for classification of "Miscellaneous Chemical Products". Chapter Heading 3822 covers "Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials".

4.2 It is submitted by the applicant that sub-heading 3822 00 covers the following goods:

- Diagnostic reagents on a backing
- Laboratory reagents on a backing
- Prepared diagnostic reagents on a backing, other than those of heading 3002 or 3006;
- Prepared diagnostic reagents without a backing, other than those of heading 3002 or 3006;
- Prepared laboratory reagents on a backing, other than those of heading 3002 or 3006;
- Prepared laboratory reagents without a backing, other than those of heading 3002 or 3006; and
- Certified reference materials.

4.3 The applicant states that the Harmonised System of Nomenclature (hereinafter referred to as 'HSN') Explanatory Notes at Page No.VI-3822-1 [Explanatory Notes – Sixth Edition (2017) Volume 2 – Sections VI-VIII Chapters 29-43] relates to Chapter Heading 38.22. He has extracted the relevant portions of the above and the same reads as under:

"This heading covers diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents, other than diagnostic reagents of heading 30.02 or diagnostic reagents designed to be administered to the patient and blood grouping reagents of heading 30.06. It also covers certified reference materials. Diagnostic reagents are used in the evaluation of physical, biophysical or biochemical processes and states in animals and humans; their functions based upon a measurable or observable change in the biological or chemical substances constituting the reagent. Prepared diagnostic reagents of this heading may be similar in function to those designed to be administered to patients (sub-heading 3006.30), with the exception that they are used for in vitro, rather than for in vivi, applications. Prepared laboratory reagents include

not only diagnostic reagents, but also other analytical reagents used for purposes other than detection or diagnosis. Prepared diagnostic and laboratory reagents may be used in medical, veterinary, scientific or industrial laboratories, in hospitals, in industry, in the field or, in some cases, in the home.

. . . .

The reagents of this heading should be clearly identifiable as being for use only as diagnostic or laboratory reagents. This must be clear from their composition, labelling, instructions for in vitro or laboratory use, indication of the specific diagnostic test to be performed or physical form (eg. presented on a backing or support)."

4.4 The applicant argues that that in the instant case, the imported goods viz. Pharmaceutical Reference Standards ('PRS') is a "prepared laboratory reagent without a backing" with a label and proper instructions for its use.

4.5 The applicant states that classification of goods covered under the First Schedule to the Customs Tariff Act is done as per the General Rules for Interpretation. Rule 1 to the GI Rules gives precedence to the Section or Chapter Notes while classifying a product. For the legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require. As per Rule 1 of GI Rules, classification is to be determined only on the basis of description of the heading, read with relevant Section and Chapter Notes. Further, in terms of Rule 3(a) of the GI Rules, the heading which provides the most specific description shall be preferred to headings providing a more general description. Therefore, in terms of Rule 1 read with Rule 3(a) of the GI Rules, the Pharmaceutical Reference Standards (PRS) is appropriately classified under Chapter Heading 3822 of Customs Tariff Act.

4.6 The applicant has been classifying PRS as a "prepared laboratory reagent without a backing", under Tariff entry 3822 00 90, in line with the decision of the Hon'ble CESTAT, Bangalore in the matter of LGC Promochem India Pvt. Ltd v. Commissioner of Customs and Service Tax, Bangalore [2016 (360) ELT 406 (Tri-Bang)]. It held as follows:

"7.7 In our considered view, the Pharmaceutical Reference Standard are required for analytical measurement which depend on many variable to provide data needed to make informed decisions. The quality of this data is as good as Reference material used and high-quality Reference material are available only from the organisations with robust quality system viz. US Pharmacopoeia, British Pharmacopoeia, etc. The Reference Standard of the Organisations like US Pharmacopoeia, British Pharmacopoeia instill confidence, as to that the products which are tested against the standard as laid down by these pharmacopoeias would qualify to be used safely. On this background the goods imported by the main appellant are to be considered whether they are Pharmaceutical Reference Standards or otherwise. The phrase "Reference

Standards: is not defined or described in Customs Act, 1962 or Customs Tariff Act, that appeared to establish appropriate product description as early as in the year 2004, a particular reference seeking clarification on the description of "Pharmaceutical Reference Standards" was made to appropriate and competent authority in this matter, i.e., Drugs Controller General (India) under Directorate General of Health Services (Drug Division) who has vide his letter reference No. X19014/10/04-D dated 17-11-2004 stated as under:-

. . . . .

7.8 Plain reading of the above letter from the Drugs Controller General (India) would clearly indicate that the Reference Standards are substances required for analytical calibrating or referencing purpose which would be required to estimate the standard of the product manufactured or consumed by the clients of the main appellants. It is to be noted that based upon the above clarification, the Central Drug Testing Laboratory Mumbai vide Letter No.80/CDTL-M/2004-05/1469, dated 13-08-2004 clarified as under:-

. . . . .

7.9 Plain reading of both the communications from the competent authority to comment upon the issue seems to establish that intended use of Pharmaceutical Reference Standards are Chemicals (Reagents) substance of known purity which are intended to be used exclusively for a specified analytical, calibrating or referencing purpose and the same should be stated on the label and or accompanying certificate or literature.

7.10 On perusal of the records, we find that the appellant had shown that the imported products, which had label and certificate of analysis from United States Pharmacopoeia convention indicating that Pharmaceutical Reference Standards is as per the standard laid down by them. It has to be noted that Pharmaceutical Reference Standards which are accompanied by the certificate issued by US Pharmacopoeia are distinctive product and gets classified under laboratory chemical or under Chapter Heading 3822 read with Chapter Notes of Chapter 38 as reproduced hereinabove. The conclusion that can be reached is that Pharmaceutical Reference Standard cannot be classified as certified Reference Materials and consequently not extending the scope of applicability of notification to products other than covered under Chapter Heading 28 and Chapter 29 is also not applicable."

4.7 The applicant submits that the Hon'be CESTAT, Bangalore in the above Final Order had held that the imported product i.e. "Pharmaceutical Reference Standards" cannot be classified as Certified Reference Materials but the same are Chemical (Reagents) substances of known purity which are intended to be used exclusively for a specified analytical, calibrating or referencing purpose and the same gets classified under laboratory chemical under Chapter Heading 3822 of the Customs Tariff Act. Further, the Hon'ble Supreme Court has affirmed the decision of the Hon'ble CESTAT Bangalore in the matter of Commissioner of Customs and

Services Tax, Bangalore v. LGC Promochem India Pvt. Ltd., reported in 2018(360) ELT A173 (SC).

4.8 The applicant reiterates that it is not in dispute that the impugned product viz. Pharmaceutical Reference Standards is a Prepared Laboratory Reagent intended to be used exclusively for a specified analytical, calibrating and referencing purposes and classifiable under HSN 3822 00 90.

4.9 The applicant states that Explanation (iii) to the Notification No.1/2017 – Integrated Tax (Rate) dated 28.06.2017 provides that "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 (hereinafter referred to as the CTA). Further, as per Explanation (iv) to the Rate Notification, the rules for interpretation of the First Schedule to the Customs Tariff Act, 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. In view of the above explanations, it is evident that the classification adopted under the Customs Tariff Act can be borrowed for identifying the appropriate schedule under the IGST Act / CGST Act / State GST Acts in which particular goods are listed and also for determination of rate of tax applicable under the GST Law.

5. The applicant submits that essentially the issue under consideration in the present application is the applicability of rate of tax on supply of the Prepared Laboratory Reagent classifiable under Tariff Item 3822 00 90, in terms of the Rate Notification.

5.1 The applicant submits that the only entry in the Rate Notification which covers all diagnostic kits and reagents falling under Chapter Heading 3822 is entry no.80 of Schedule II which provides for IGST Rate at 12% and the relevant entry reads as under:

Schedule II- 12%		
S.No.	Chapter/Heading/ Sub-heading/ Tariff Item	Description of Goods
80	3822	All diagnostic kits and reagents

As submitted by the applicant, Chapter 38 of the Customs Tariff Act deals with classification of "Miscellaneous Chemical Products". Chapter Heading 3822 relates to "Diagnostic or Laboratory reagents on a backing, Prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials." Prepared laboratory reagent is covered under the Chapter Heading 3822 of the Customs Tariff Act.

5.2 The applicant submits in view of the HSN Explanatory Notes discussed supra, Prepared Laboratory Reagents include –

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- Diagnostic reagents
- Other analytical reagents used for the purposes other than detection or diagnosis.

The applicant submits that the Pharmaceutical Reference Standards imported by the applicant is undisputedly Prepared Laboratory Reagents in the nature of "other analytical reagents used for purposes other than detection or diagnosis" and classified under Tariff Entry 3822 00 90 to the Customs Tariff Act.

5.3 The applicant states that the Rate Notification under Entry No.80 of Schedule II provides for rate of tax of 12% for goods falling under Chapter Heading 3822. Therefore, in terms of the Chapter Heading, the impugned goods are covered under entry no.80 of the Rate Notification as per the applicant.

6. The applicant argues that the "reagent" in entry no.80 of Schedule II includes the Pharmaceutical Reference Standards for the following reasons:

6.1 The applicant states that the description under Entry No. 80 of Schedule II of the Rate Notification reads as "All diagnostic kits and reagents". The applicant submits that Entry No.80 covers two types of goods: "all diagnostic kits; and reagents".

6.2 The applicant submits that the meaning of the term "reagent" is wide enough to encompass both the diagnostic reagents as well as prepared laboratory reagent. As per the HSN Explanatory Notes to Chapter Heading 38.22, the term "reagent" under Chapter heading 3822 should be clearly identifiable as being for use only as diagnostic or laboratory reagents. It further provides that prepared laboratory reagents include not only diagnostic reagents, but also other analytical reagents used for purposes other than detection. Further, the HSN Explanatory Notes provides that reagents of this heading should be clearly identifiable as being for use only as diagnostic reagents or laboratory reagents which must be clear from their composition, labelling, instructions for in vitro or laboratory use, indication of the specific diagnostic test to be performed or physical form (eg. presented on backing or support).

6.3 The applicant further states that on reading of the HSN Explanatory Notes with the terms or words used in Entry 80 of the Schedule II of the Rate Notification, the description - "all diagnostic kits and reagents" includes amongst others "prepared laboratory reagents without a backing, other than those of heading 3002 or 3006."

6.4 The applicant states that the Pharmaceutical Reference Standards imported by the applicant is "prepared laboratory reagents without a backing, other than those of heading 3002 or 3006" with a proper labelling and appropriate instructions for its use and is covered under (f) supra and thus consequentially covered under the term "reagent" in Entry No.80 of Schedule II of the Rate Notification which reads as "All diagnostic kits and reagents". Accordingly, the

import and supply of "Pharmaceutical Reference Standard" would attract a levy of Integrated Tax at the rate of 12%.

6.5 The applicant also states that the expression "and" used in the term "all diagnostic kits and reagents" is conjunctive and therefore the term "reagent" is a separately identified term. The applicant submits that the term "and" has been used in the entry no.80 as a conjunctive term to separate the words "all diagnostic kits" and "reagents". Therefore the term "reagents" has to be treated as a separate word whose identity shall be separate from the word preceding it. The applicant refers to the following decisions in support of the claim that the "term" should be understood in a conjunctive sense:

a. Commissioner of Central Excise, Panchkula v. Kulcip Medicines (P) Ltd reported in 2009 (14) STR 608 (P&H)

b. Mazagaon Dock Ltd. v. CIT (1958) 34 ITR 368 (SC)

c. Star Industries v. Commissioner of Customs (Imports), Nhava Sheva reported in 2014 (312) ELT 209 (Tri.- Mumbai)

d. Star Industries v. Commissioner of Customs (Imports), Raigad [2015 (324) ELT 656 (SC)]

6.6 The applicant further submits that upon perusal of the description under entry no. 80 to the Schedule II of the Notification, it leads to a clear conclusion that the entry covers reagents which may be either used in laboratory or for diagnosis. The applicant submits that there is no specific exclusion or qualification which has been used before the word "reagent" in the entry to evidence the exclusion of any particular type of "reagent". Hence, in the absence of a specific exclusion or qualification to the term "reagent", both laboratory reagents and diagnostic reagents shall be covered under Entry 80 of Schedule II of the Rate Notification. He has taken the support of the judgement of the Hon'ble Supreme Court in the case of Commissioner of Commercial Tax, U.P. v. A.R.Thermosets (Pvt) Ltd. reported in 2016 (339) ELT 500 (SC). The applicant submits that the term "reagent" used in the description under Entry No.80 to Schedule II of the Rate Notification has been used as generic expression and it would cover all reagents, which share and have common composition and commercial entity, and meet the popular parlance test. The applicant also places reliance on the following judgements in support of his contention:

(a) Himalaya Stone Industries v. State of Uttarakhan and others [2013] 62 VST 233

(b) Nandi Printers Ltd. v. State of Karnataka reported at 122 STC 164 (Kar)

7. The applicant relies on the Circular F.No.296/07/2017 -CX.9 dated 15.06.2017 issued by the Central Board of Indirect Taxes & Customs which provides for a list of goods with reduced tax liabilities under the GST regime in comparison to erstwhile combined indirect tax rates and the applicant submits that in the erstwhile indirect tax regime, the combined rate of indirect taxes levied on the manufacture and sale of "Pharmaceutical Reference Standards" classified under Tariff Item 3822 00 90 was approximately 18% in case of "intra-state sale: and 14.5% in case of "interstate sale". Hence the intention of the Central

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Government was to lower the tax incidence on the specified goods in the GST regime and hence the only possible rate of tax in the GST regime can thus be 12%.

8. The applicant submits since the Pharmaceutical Reference Standards are liable to tax at 12% by virtue of being covered under entry no.80 of Schedule II for the reasons stated above, they cannot be covered under the general entry no.453 of Schedule III attracting a tax of 18%. In support of this the applicant has cited various judgements of the Courts.

9. FINDINGS & DISCUSSION:

We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri. Shivadass, Advocate, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. 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.

9.1 The contentions of the applicant are verified and found that there is no dispute regarding the HSN Code applicable to the Pharmaceutical Reference Standards being 3822 00 90 and the Hon'ble Supreme Court has approved the judgement of Hon'ble CESTAT, Bangalore in the case of LGC Promochem India Pvt. Ltd v. Commissioner of Customs & Service Tax, Bangalore [2016 (340) ELT 406 (Tri-Bang.)] holding that Pharmaceutical Reference Standards are covered under HSN 3822 00 90.

9.2 HSN Code 3822 of the Customs Tariff Act reads as under:

3822	Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 30.02 or 30.06; Certified reference materials
3822 00	- Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 30.02 or 30.06; Certified reference materials
	--- For medical diagnosis:
3822 00 11	---- Pregnancy confirmation reagent
3822 00 12	---- Reagent for diagnosing AIDS
382200 19	---- Other
3822 00 90	--- Other

It is also undisputed that the PRS is a reagent and this reagent is not used for diagnostic purposes. The reagents used for diagnostic purposes are covered under HSN 3822 0011 to 3822 0019 and reagents used other than for diagnostic purposes are classified under 3822 00 90. The applicant also agrees that the goods in question is "Prepared laboratory reagents without a backing, other than those of heading 3002 or 3006" and is used exclusively for a specified analytical calibrating and referencing purposes and classifiable under HSN 3822 00 90.

9.3 The entry no. 80 of Schedule II of the Notification No. 01/2017 – Integrated Tax (Rate) dated 28.06.2017 which is taxable at 12% reads as under:

Schedule II- 12%		
S.No.	Chapter/Heading/ Sub-heading/ Tariff Item	Description of Goods
80	3822	All diagnostic kits and reagents

The entry means "all diagnostic kits and reagents" of Heading 3822 are covered under the entry 80 above. The issue here is not whether the PRS is a reagent or not as it is very clear that the same is a reagent. The issue is whether it is a diagnostic reagent or not.

9.4 The description of the entry 80 reads "all diagnostic kits and reagents" means all diagnostic kits and all diagnostic reagents. The principle of ejusdem generis is applicable and reagents of the class of diagnostic reagents are covered under the entry no.80 of Schedule II of the said Notification. The contention of the applicant that there are two classes of goods covered under the said description, "All diagnostic kits" and "reagents" cannot be accepted for the reason that the words "diagnostic" is not just applicable to "kits" but also "reagents". Hence it is very clear that commodities of HSN code 38220011, 38220012 and 38220019 which are for medical diagnosis are covered under the entry no. 80 of the Schedule II of the said Notification and not all laboratory reagents. The applicant also agreed that the goods he is dealing is not a diagnostic reagent but a laboratory reagent.

9.5 The word "and" is a word of conjunction and it joins two goods "kits" and "reagents" and they are with the common adjective of being "diagnostic" and hence joins two classes of goods "diagnostic kits" and "diagnostic reagents" and all such goods which belong to the heading 3822 are covered under the entry no.80 of Schedule II of Notification No. 1/2017 – Integrated Tax (Rate) dated 28.06.2017 and the goods in question though belong to the heading 3822, since is neither a "diagnostic kit" nor a "diagnostic reagent" and hence not covered under the said entry.

9.6 The goods of HSN 3822 other than "diagnostic kits" or "diagnostic reagents" are not covered under any specific entry of Schedule I or Schedule II Schedule IV or Schedule V or Schedule VI, they have to be covered under

some entry of Schedule III. The specific entries of Schedule III are verified and found the same not covered in those entries and hence the commodity is question gets covered under the entry no. 453 which reads as under

Schedule III- 18%		
S.No.	Chapter/Heading/ Sub-heading/ Tariff Item	Description of Goods
453	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI

10. In view of the foregoing, we rule as follows

RULING

The Prepared Laboratory Reagents or Pharmaceutical Reference standards (HSN 3822 00 90) which are not diagnostic reagents are not covered under Entry No.80 of Schedule II of Notification No.1/2017 – Integrated Tax (Rate) dated 28.06.2017 and is covered under entry no.453 of Schedule III of Notification No.1/2017 – Integrated Tax (Rate) dated 28.06.2017 and attracts IGST at 18%.

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23.09.2019

(Harish Dharnia)
Member

(Dr.Ravi Prasad.M.P.)
Member

Place: Bengaluru,
Date: 23.09.2019

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 Commissioner of Central Tax, Bangalore-North West, Bengaluru.
4. The Asst. Commissioner, LGSTO-075, Bengaluru.
5. Office Folder.