

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

Advance Ruling No. KAR ADRG 117/ 2019

Date : 30-09-2019

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 Hindustan Coca-cola Beverages Pvt. Ltd., Bidadi Hobli, Ramanagara Taluk & District, Karnataka - 562109
2.	GSTIN or User ID	29AAACH3005M1ZN
3.	Date of filing of Form GST ARA-01	14.08.2018
4.	Represented by	Sri G.Shivadas, Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Tax, Bangalore North West Commissionerate.
6.	Jurisdictional Authority - State	LGSTO-155, Ramanagar
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act 2017 & Rs.5,000/- under KGST Act 2017 vide CIN RBIS18082900039801 dated 07.08.2018.

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

1. M/s Hindustan Coca-Cola Beverages Pvt. Ltd., (called as the 'applicant' hereinafter), having GSTIN number 29AAACH3005M1ZN, have filed an application for Advance Ruling under Section 97 of the 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 "FANTA FRUITY ORANGE" product proposed to be manufactured is classified under Chapter Heading 2202 99 20 at Sl. No. 48 under



Schedule II as "Fruit pulp or fruit juice based drinks", or under Chapter 2202 99 90 at Sl.No. 24A under Schedule III as "Other Non-alcoholic beverages" or under 2202 10 at Sl.No.12 under Schedule IV as "all goods [including aerated waters], containing added sugar or other sweetening matter or flavoured" under Notification No.1/2017- Central Tax (Rate) dated 28.06.2017 (as amended)".

3. The applicant furnishes some facts relevant to the stated activity:
 - a. The applicant states that he is in the business of manufacturing of aerated drinks and fruit pulp or fruit juice based drinks under different brand names, classifying the same under Chapter 22 of the First Schedule to the Customs Tariff Act, 1985.
 - b. The applicant is proposing to commence manufacturing and supply of a new product "FANTA FRUITY ORANGE" in its factory located at Bidadi Hobli, Ramanagaram Taluka and District 562109.
 - c. The major ingredients that will be used to manufacture "FANTA FRUITY ORANGE" are Orange Juice (constituting 10.5% of the total beverage), Sugar, Acidity Regulators, Preservatives, Stabilizers, Synthetic Food Colours, Carbon dioxide, and sweeteners, etc. The manufacturing process will start with procurement of Orange juice concentrate from the vendor and the same will be stored in -20 to -16 degrees Celsius cold storage. Orange juice (which constitutes 10.5% of the total beverage) will be obtained by adding water to the Orange Juice concentrate. Thereafter, sugar syrup (which is prepared by mixing granulated sugar with treated water), along with flavour, additives and preservatives will be blended along with Orange juice base to obtain the final mixture. This mixture will then be carbonated, before being filled in PET bottles.
 - d. The Orange juice will form the base of the beverage and carbonation will be done only for preservation of the beverage, as will be explained in the subsequent paras. Details of the ingredients proposed to be used for the manufacture of "FANTA FRUITY ORANGE" and the process involved are collectively enclosed.
4. The applicant has explained the manufacturing process of the Fanta Fruity Orange Product (with 10.5% Juice Content) as under:
 - 1) Raw material is clarified using multiple barrier water treatment process to meet the treated water as per IS 14543 parameters.
 - 2) Sugar Syrup is prepared using hot carbon treatment process, and use required quantity of this sugar syrup for preparation of Final Syrup.

- 3) Then beverage base and orange juice concentrate are added to sugar syrup to prepare final syrup.
- 4) The treatment water and final syrup are mixed, carbonated using Proportioner just before filling.
- 5) Filling and Packaging –
 - a. Finished product is transferred on site blown PET bottles using Automatic filling machines and capped immediately.
 - b. These filled bottles are coded with manufacturing date, time, and MRP using on line coding machine.
 - c. These filled bottles are labelled using automatic labelling machine, these labels contain all declaration of ingredients and Juice contents.
 - d. Filled, labelled bottles are shrink wrapping and palletized using automatic machines.
 - e. These pallets are stretch wrapped and stored in the warehouse.
 - f. Products are released to market after confirming to all Release Product and Package Quality parameters.

5. Regarding the question before advance ruling, the applicant states as under:

5.1 In the understanding of the applicant, the product "FANTA FRUITY ORANGE" with 10.5% Orange Juice, would be classifiable under Tariff Item No. 2202 99 20 as "Fruit pulp or fruit juice based drinks" for the reasons given hereunder.

5.2 It is submitted that the product in question is undisputedly covered under Chapter Heading No. 2202, which deals with non-alcoholic beverages, other than fruit or vegetable juices, classified under the Chapter Heading No. 2009. Chapter Heading 2202 is reproduced below for ease of reference:

Tariff Item	Description of goods	Unit	Rate of Duty
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of Heading 2009		
2202 10	- Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured		
220210 10	--- Aerated Waters	1	30%
220210 20	--- Lemonade	1	30%
220210 90	--- Other	1	30%



2202 99	- Other:		
220299 10	--- Soya milk drinks, whether or not sweetened or flavoured	1	30%
220299 20	--- Fruit pulp or fruit juice based drinks	1	30%
220299 30	--- Beverages containing milk	1	30%
220299 90	--- Other	1	30%

5.3 From a perusal of the above, it is evident that Chapter Heading No. 2202 has been divided into two sub-headings, viz. Sub-Heading 2202 10 which covered "waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured", and sub-heading 2202 99 which covers "other" non-alcoholic beverages. Fruit pulp or fruit juice based drinks are specifically covered under Tariff Item No. 2202 99 20 under the sub-heading No. 2202 99 as 'other non-alcoholic beverages'.

5.4 The applicant is submitted that under the erstwhile Customs Tariff regime, Chapter Heading No. 2202 was similarly structured with some slight variations. With effect from 1st July, 2017 the products manufactured by the applicant are covered under the new GST regime and the goods manufactured and supplied by the applicants are now covered under Notification No.1/2017- Central Tax (Rate) dated 28.06.2017 and Notification No.1/2017 - State Tax (Rate) dated 30.06.2017 (as amended) which has been issued under Section 9(1) of the CGST Act and KGST Act respectively. The classification and the applicable rate of GST on products supplied are determined under the said Notification No.1/2017- Central Tax (Rate) dated 28.06.2017 read with Notification No.1/2017 -State Tax (Rate) dated 30.06.2017 (as amended). The items manufactured and supplied under Chapter Heading No.2202 which are covered under the said Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017 and Notification No. 1/2017 - State Tax (Rate) dated 30.06.2017 (as amended), are specified under Schedule - II, III and IV, are as follows:

Schedule - II - 6%		
47	2202 90 10	Soya milk drinks
48	2202 90 20	Fruit pulp or fruit juice based drinks
49	2202 90 90	Tender coconut water put up in unit container and bearing a registered brand name
50	2202 90 30	Beverages containing milk
Schedule - III - 9%		
51	2202 99 90	Other non-alcoholic beverages [other than tender coconut water]
Schedule - IV - 14%		
52	2202 10	All goods [including aerated water] containing added sugar or other sweetening matter or flavoured

5.5 For the purpose of determining the correct classification of a commodity under one of the schedules and corresponding Chapter/ Heading / Sub-heading/ Tariff Item of the said Notification No. 1/2017 - Central Tax (Rate) dated

28.06.2017 and Notification No. 1/2017 - State Tax (Rate) dated 30.06.2017 (as amended), the explanation to the said Notification specifies as follows:

Explanation. - For the purposes of this notification -

"....."

(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.

5.6 In view of the above explanation, for determination of correct classification of a product under Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017 and Notification No. 1/2017 - State Tax (Rate) dated 30.06.2017 (as amended), the "Tariff item", "sub-heading", "heading" and "Chapter" shall be looked into by reference to what has been specified in the First Schedule to the Customs Tariff Act, 1975. For interpretation of correct classification of a commodity under the said Notification, the Rules of Interpretation of Customs Tariff Act including the Section, Chapter Notes and the General Explanatory Notes of the First Schedule shall will be applicable.

5.7 It is submitted that the organisation and scheme of Customs Chapter Heading No. 2202 demonstrates that tariff Sub-heading No. 2202 10 covers drinks which are predominantly made up of water, including mineral water and aerated water and are either sweetened or flavoured or both. Tariff item No. 2202 99 covers other non-alcoholic beverages. The drinks covered under this sub-heading would be imparted their essential character by another substance.

5.8 A mere perusal of the nomenclature of the Tariff item No. 2202 99 10 to 2202 99 30 clearly shows that these drinks would be known by the dominant ingredient present therein, like soya milk, fruit pulp, fruit juice, milk, etc. These drinks would be characterised by the strong presence of such ingredients, rather than only as a flavouring agent, as in the case of the drinks falling under Tariff Item No. 2202 10.

5.9 In the background of the scope of Chapter heading No. 2202, as explained above, the applicant submits that goods falling under Tariff Item 2202 10 90 will cover within its ambit those drinks which are made up of water and contain orange flavour added thereto.

5.10 It is further submitted that the expression 'fruit pulp or fruit juice based drinks' falling under 2202 99 20 essentially means a drink based on fruit pulp or fruit juice (with or without additional flavours and sweeteners), where fruit pulp/ fruit juice gives the overall / essential character to the drink.



5.11 In this regard, it is pertinent to examine the meaning of the term 'base', used in Tariff Item No. 2202 99 20. The Collins Cobuild English Dictionary for Advanced Learners, 2001. Harper Collins Publishers, defines 'base' thus:

"Base -

(1) The base of something is its lowest edge or part.

.....
(11) The base of a substance such as paint or food is the main ingredient of it, to which other substances can be added."

5.12 Similarly, The Compact Edition of the Oxford English Dictionary, 1987, Oxford University Press explains 'base' to mean "..... II. The main or the most important element or ingredient, looked upon as its fundamental part." Thus, a substance or ingredient of a food item can be called its base when such substance/ingredient forms the main or fundamental ingredient, and imparts the essential attribute to the food item.

5.13 The applicant submits that the product in question is proposed to be prepared with orange juice as its base, which will be added to the syrupy liquid consisting of water, sugar and other constituents. The percentage of orange juice is 10.5% of the total beverage. It is the active ingredient of the product in question, and imparts the basic attribute to the drink, including its taste and characteristics. Therefore, the product in question will be an 'orange juice based drink', qualifying as 'fruit juice based drink' under the Tariff Item No. 2202 99 20.

5.14 In support of the above interpretation, the applicant places reliance on D.Hicks (ed.), Production and Packaging of Non-carbonated Fruit Juices and Fruit Beverages, 1990, Van Nostrand Reinhold, New York, wherein it is stated that the most significant feature of a fruit beverage is not its fruit content but the function for which it is designed and marketed. The fruit is often a dominant ingredient providing its overall character to the drink which cannot be achieved in any other way.

5.15 The applicant submits that the above submission is further amplified on examination of the scope of sub-headings 2202 10 vis-à-vis the scheme of Chapter Heading 2202. As already submitted Sub-heading 2202 10 covers waters, including aerated waters, which are either sweetened or flavoured or both. Thus, a flavoured water-based beverage is covered by sub-heading No. 2202 10. Flavour means the odour and taster of a food item. Douglas M. Considine (Ed.), Foods & Food Production Encyclopedia, Van Nostrand Reinhold Company, explains that the "flavour of a food substance is the combined sensation of taste and odour as perceived by the eater/ drinker of that substance."

5.16 The Random House Compact Unabridged Dictionary, 1996, Random House, New York defines 'flavour' thus:

"1. Taste, esp. the distinctive taste of something as it is experienced in the mouth."

According to The Shorter Oxford English Dictionary, 1973, Clarendon Press, Oxford, 'Flavour' is

" 1. A smell or odour. In mod. use: A trace of a particular odour."

5.17 The applicant, therefore submits that flavour is a trace (extremely small amount of a component) of a particular odour or taste in a food substance. Thus flavoured waters contemplated under Sub-heading No. 2202 10 are beverages or preparations which contain flavouring agents, which impart the sensation of a particular taste or odour. It does nothing more. It does not impart or attribute any sense of texture or mouth-feel identical with the substance from which the particular flavour was extracted or prepared. On the contrary, as already submitted, a fruit juice based drink not only attributes the essential character of the beverage, but also functions more than as a mere agent imparting sense of taste.

5.18 In support of the above contention, the applicant also relies on the US Customs Ruling No. N 122815 in the matter of M/s Michele Peplinski Parker's Organic Fruit Juice, wherein the issue was regarding the classification of certain beverages containing concentrates of fruit juices as well as other ingredients. The ruling entailed classification of four such products, which could be summarized in the following table:

Sl. No.	Product Name	Ingredients	Classification
1	Parkers Organic Sparkling Apple with a Twist of Lime	50% organic apple, 5% organic grape and organic lime juices from concentrate. Carbonated water has been added to bring the final Brix value of this product to a Brix of 13.	2202.90.9090 (Others)
2.	Parkers Organic Sparling Pink Lemonade	9% grape juice concentrate, 7% apple juice concentrate, 1% lemon juice concentrate, 0.5% strawberry juice concentrate and 83% water	2202.90.9090 (Others)
3.	Parkers Organic Ginger Beer	Carbonated water, Organic Cane Sugar and Australian Organic Ginger	2202.10.0040 (Carbonated Soft drink - Others)
4.	Parkers Organic Lemonade	Carbonated Water, Organic Cane Sugar, Organic Lemon juice and natural flavour	2202.10.0020 (Carbonated Soft Drink - Others)

5.19 The applicant argues that the aforesaid ruling clearly points to the fact that a beverage could be a fruit juice based drink (eg. Sl. 1 & 2 above) and it could



be flavoured water (eg. Sl. 3 & 4 above). The classification, however is determined by the nature of the beverage, particularly the presence of the fruit juice to an extent that it attributes the essential character to the beverage, not merely as a flavouring agent. It is the dominant nature of the product which determines the classification under the sub-heading No. 2202 10 or 2202 99.

5.20 The applicant further submits that as per the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 (as amended), flavouring agents can be natural, nature-identical or artificial. Thus, a flavoured beverage could be imparted the flavour by natural, nature-identical or synthetic substances. Fruit juice or essence can be said to be a natural flavouring agent. In that sense, any beverage made of fruit juice flavour would be a flavoured water, and would be liable for classification under sub-heading No. 2202 10. However, a closer examination of the scheme of classification under Chapter Heading No. 2202 would reveal that such an interpretation is not what is contemplated in Chapter Heading 2202 and that flavoured water is not the same as a fruit juice based drink. As already stated above, fruit juice based drink is specifically classified under Tariff Item No. 2202 99 20.

5.21 The applicant submits further that the above interpretation is in consonance with the scheme of classification as envisaged under Chapter Heading 2202. The distinction drawn above between 'fruit pulp or fruit juice based drinks' and mere 'flavoured beverages' is evident from the scheme of Chapter Heading 2202. If this distinction is ignored, it would render the specific Tariff Item No. 2202 99 20 redundant and otiose. Although Sub-heading 2202 99 is provided as a residuary entry, it has to be examined in the broader scheme of heading 2202. If Tariff Item 2202 10 90 is treated to include an orange fruit based drink, it would mean that any fruit juice based drink would be susceptible to classification under Tariff Item No. 2202 10 90, as being flavoured water, irrespective of the composition, nature and common understanding of the market regarding the product. This is so because in a broader sense, juice or essence is a flavouring agent, and any beverage based on fruit juice would be classifiable as flavoured water. However, this is evidently not the intention of the scheme of classification under Chapter Heading No. 2202, which provides a separate entry for classification of fruit juice based drinks.

5.22 Furthermore, the applicant states that upon closer examination of the Chapter heading No. 2202, it can be seen that Tariff Item 2202 99 20 covers 'Fruit pulp or fruit juice based drinks' within its ambit whereas, Tariff Item 2202 99 30 covers 'Beverages containing milk'. Therefore, it is evident that the intention of the Legislature is to include those beverages under Tariff Item 2202 90 20, wherein the fruit imparts the essential character of the beverage. Unlike, Tariff Item 2202 99 30 which used the word 'containing' instead of 'based' which would mean that beverages with any quantity of milk would be covered under Tariff Item No. 2202 99 30.

5.23 Thus the applicant submits that Sub-heading 2202 10 would cover only those beverages which are prepared with flavours (eg. Soft drinks) and the beverages which are prepared from fruit juice would be classifiable under Tariff Item 2202 99 20.

6. Regarding the point Orange Juice forms the base of the beverage: Carbonation is only for preservation of the beverage, the applicant states as under:

6.1 As per his understanding merely because the product in question, proposes to be manufactured by the applicant is aerated, it will not be classified under Tariff Item No. 2202 10 10.

6.2 From a perusal of the manufacturing process of product in question, proposed to be manufactured by the applicant is aerated, it will not be classified under Tariff Item No. 2202 10 10.

6.3 From a perusal of the manufacturing process of product in question, it can be seen that apart from Orange Juice, the applicant is also using Carbon dioxide as one of the ingredients to manufacture Fanta Fruity Orange. However, it is clarified that Carbon dioxide to the extent of 0.5148% of the total beverage (5.148 grams per litre) is added merely for preservation of the beverage and not for any purpose. It is 10.5% Orange Juice which gives the beverage its essential character and forms the base of the beverage. On the other hand, Carbon dioxide in combination with other additives (namely citric acid and potassium sorbate) is added for ensuring the safety of the beverage for consumption over its declared "best before date".

6.4 To substantiate this point further, reliance is placed by the applicant on the Carbonated Soft Drinks: Formulation and Manufacture, edited by David P.Steen and Philip R.Ashurst, 2006 by Blackwell Publishing Ltd. wherein, it has been held that:

"Carbon dioxide is a colourless, non-toxic, inert gas that is virtually tasteless and is readily available at a reasonable cost. It is soluble in liquids, the degree of solubility increasing as the liquid temperature decreases, and can exist as a gas, liquid or a solid. When dissolved in water it forms carbonic acid. It is carbonic acid that produces the acidic and biting taste found in carbonated waters and soft drinks. Above a certain level of carbonation, carbon dioxide has a preserving property, having an effective antimicrobial effect against moulds and yeasts. It achieves this with moulds by depriving the moulds of oxygen required for growth."

6.5 Further, reliance is also placed by the applicant on Chemistry and Technology of Soft Drinks and Fruit Juices, Second Edition, edited by Philip R.Ashurst, Ashurst and Associates, Consulting Chemist for the Food Industry, Hereford, UK, 2005 by Blackwell Publishing Ltd., wherein it has been stated that:



"RTD (ready to drink) beverages are mostly carbonated (i.e. contain carbon dioxide). This, as well as giving sensory characteristics, provides a very effective antimicrobial effect, especially against yeasts and moulds. Carbon dioxide is effective against yeasts because it tends to suppress the production of more CO₂ as a byproduct of the fermentation of sucrose to ethanol. It deprives moulds of the oxygen that most require for growth."

6.6 Therefore, the applicant states that as can be seen from the above, that Carbon dioxide is a very effective preservative, as it inhibits growth of microorganisms in the beverage. In the instant case, Fanta Fruity Orange contains Carbon dioxide only to the extent of 0.5148% and that too for preservation purposes. Therefore, in no way, Fanta Fruity Orange be classified under the category "All goods (including aerated waters), containing added sugar or other sweetening matter or flavoured" falling under sub-heading 2202 10 (Sl.No. 12 of Schedule IV) of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 and Notification No.01/2017 - State Tax (Rate) dated 29.06.2017 (as amended). Since, Fanta Fruity Orange is proposed to be manufactured from 10.5% Orange Juice, the same will form the base of the beverage drink and it ought to be classified as a "fruit juice based drink".

6.7 The applicant has placed on record a test report from Microchem Silliker Pvt. Ltd, whereby the sister unit of the applicant having factory at Goblej, Kheda, Gujarat manufactured the product Fanta Fruity Orange and got it tested for percentage of Carbon dioxide. From a perusal of the test report, it can be seen that Gas volume in Fanta Fruity Orange is 2.6. It is submitted that Gas Volume is defined as the number of times the total volume of dissolved gas can be divided by the volume of the liquid in the container. To ascertain the weight of Carbon dioxide dissolved in Fanta Fruity Orange, the following formula is used:

Formula:

Weight of CO₂ = CO₂'s Gas Volume in beverage X Density of CO₂ X Volume of the container.

Weight of CO₂ in gms in 1 Litre = 2.6 X 1.98 X 1 = 5.148 grams

6.8 The applicant, in order to substantiate the submissions made above, has enclosed an affidavit of Sri Rajesh Nair, clearly stating that Fanta Fruity Orange would be manufactured from Orange Juice which constitutes 10.5% of the total beverage and the same will form the base of the beverage. Further, it has also been stated that the purpose of adding Carbon dioxide to the final product is only for preservation and not for any other purpose.

6.9 Further, the applicant has placed on record a certificate from Dr.Lambert Rodrigues, Former Reader in Food Technology, Food and Fermentation Technology Department, Institute of Chemical Technology (ICT), University of Mumbai, wherein he has stated that Fanta Fruity Orange contains 10.5% Orange Juice and 0.5148% Carbon dioxide (5.148 grams per litre)

6.10 Further, the applicant has also enclosed a certificate from Dr. Madhukar Bhotmange, of Laxminarayan Institute of Technology, Nagpur University, wherein he has stated that Fanta Fruity Orange contains 10.5% fruit content (Orange juice) and 5.15 grams per litre of Carbo dioxide.

6.11 Therefore, the applicant states that he understands that Fanta Fruity Orange being an Orange juice based drink, should be classified as a "Fruit pulp or fruit juice based drink" under Tariff Item No. 2202 99 20. (Sl.No. 48 of Schedule II).

6.12 The applicant states that his understanding is bolstered by several decisions rendered in the context of Tariff Item 2202 90 20 under the erstwhile Central Excise Tariff Act, 1985 and the reliance is placed on the Tribunal's decision in the case of CCE, Bhopal v. Parle Agro Pvt. Ltd., 2008 (226) ELT 194 (Tri), wherein the issue involved was regarding classification of the product 'Appy Fizz'. Revenue wanted to classify it under Tariff Item 2202 10 10, because it was aerated. Respondents had classified the item under tariff item 2202 90 20 as a juice based drink because the product contained 23% apple juice. The assessee relied upon the Prevention of Food Adulteration Rules, 1955 to submit that fruit beverage or fruit drink must contain soluble solids not less than 10%, whereas their product contains 13.7% soluble solids. Rejecting the contention of the Department, the Hon'ble Tribunal, at para 6, held the product classifiable under tariff item 2202 90 20, which was affirmed by the Hon'ble Supreme Court by dismissing the appeal filed by the Department.

PERSONAL HEARING PROCEEDINGS HELD ON 03.10.2018.

7. Sri. G. Shivadass, Advocate and duly authorised representative of the applicant appeared for personal hearing proceedings held on 03.10.2018 & reiterated the facts narrated in their application and also submitted copies of relevant documents and judgements that they intend to rely on.

8. FINDINGS & DISCUSSION:

8.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. G. Shivadass, Advocate and 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.

8.2 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.



8.3 The applicant seeks advance ruling in respect of the following question.

"Whether "FANTA FRUITY ORANGE" product proposed to be manufactured is classified under Chapter Heading 2202 99 20 at Sl. No. 48 under Schedule II as "Fruit pulp or fruit juice based drinks", or under Chapter 2202 99 90 at Sl.No. 24A under Schedule III as "Other Non-alcoholic beverages" or under 2202 10 at Sl.No.12 under Schedule IV as "all goods [including aerated waters], containing added sugar or other sweetening matter or flavoured" under Notification No.1/2017- Central Tax (Rate) dated 28.06.2017 (as amended)".

8.4 The applicant vide their letter dated 19.09.2018 requested to include the information with regard to pending of the application for advance ruling before the Gujarat Advance Ruling Authority, under Sl.No.17 of the form GST ARA-01, filed by the applicant before this authority. The applicant company, on behalf of Gujarat plant / manufacturing unit, filed the said application before the Gujarat authority on the same issue / question and also related to same product "Fanta Fruity Orange". The said application has been culminated into a ruling GUJ/GAAR/R/07/2019 dated 30.03.2019.

8.5 In this relation, we draw attention to Section 98(2) of the CGST Act 2017 and the provisos therein, which read as under:

"98(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorized representative and the concerned officer or his authorized representative, by order, either admit or reject the application :

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order. "

In the instant case the applicant had already filed an application, on 27.11.2017, for advance ruling before the Gujarat Authority for Advance Ruling in respect of the same question i.e. classification of the product "Fanta Fruity Orange" that has also been raised in the instant application. Hence it is clearly evident that the question raised by the applicant in the instant application, under the provisions of CGST Act 2017, has already been decided by the Gujarat Authority for Advance Ruling. Therefore the instant application is liable for rejection.

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

RULING

The application filed by the applicant is hereby rejected for the reasons mentioned above.


30.09.2019
(Harish Dharnia)
Member


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

Place : Bengaluru,

Date : 30.09.2019

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 Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-155, Ramanagar.
5. Office Folder