

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax (Member)
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax (Member)

GSTIN Number, if any/ User-id	27AABCU0589J1Z0	
Legal Name of Applicant	UTTARA IMPEX PRIVATE LIMITED	
Registered Address/Address provided while obtaining user id	2, UTTARA HOUSE, CAMP, WHELLESLEY ROAD, PUNE, MAHARASHTRA, 411001.	
Details of application	GST-ARA, Application No. 25 Dated 17.05.2018	
Concerned officer	SGST - PUN-VAT-E-701, PUNE-4	
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Wholesale Business, Retail Business, Warehouse/Deport
B	Description (in brief)	IMPORT AND SALE OF GOODS
Issue/s on which advance ruling required	(i) classification of goods and/or services or both	
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.	

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by UTTARA IMPEX PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following issue.

- Classification of our products under GST regime.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST 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 provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

STATEMENT OF THE RELEVANT FACTS HAVING A BEARING ON THE QUESTIONS AS PROVIDED IN ANNEXURE 1

Uttara IPMEX Private Limited is mainly engaged in trading of various poultry feed products. Aforementioned products were covered under the description "Aquatic feed, cattle feed, poultry feed, their concentrates, animal feed supplements and animal feed additives, grass, hay, straw, cotton seed oil cakes excluding other oil cakes and all varieties of de-oiled cakes" covered under entry No. 4 of Schedule A to the MVAT Act, 2002. The products under this heading were exempted.

Under GST also there is similar description "Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake" in the exemption Notification No. 2/2017-Integrated Tax (Rate) dated 28th June, 2017, Notification No. 2/2017-Central Tax (Rate) dated 28th June, 2017 and Notification No.2/2017-Union Territory Tax (Rate) dated 28th June, 2017 under HSN codes 2301, 2302, 2308, 2309. However, we are facing some ambiguity in correct classification of our products. In our view it shall be covered under the aforesaid HSN codes and effectively the products will be exempted. However, due to different technical description of the products, there can be another school of thought and the tax may be levied at different rates, by revenue authorities on the said products.

STATEMENT CONTAINING APPLICANTS INTERPRETATION OF LAW IN RESPECT OF THE QUESTIONS RAISED

The commodities namely DL Methonine, Bicarbonate, Phytase, Betaine, Monodicalcium, Tryptophane, UT Vit 50, Threonine, Lysine and Creamino are feed supplements for consumptions of poultry only and are not put to any other use.

Entries in the First Schedule to the Act are enactment of the legislature and the State Government which is a sub – ordinate legislative body cannot take away the exemption granted by law by issuance of a notification. Copy of the judgement of the Hon'ble High Court of Madhya Pradesh in the case of **Munnalal Agarwal and Another Vs State of Madhya Pradesh and Another reported in (2006) 148 STC 388** is enclosed in support of the said argument.

Enclosing the copies of the judgement of the Hon'ble High Court of Karnataka in the case of **G. K. Chickanarasimhaiah Vs State of Mysore reported in (1971) 28 STC 94** and that of the Hon'ble High Court of Andhra Pradesh Vs **Balaji Poultry Agencies reported in (1991) 82 STC 353** it is argued that the opinion of experts is a safe guide and a valuable source in interpreting and deciding as to whether the commodities are animal feed supplement. Copies of the opinion of the following experts are enclosed herewith in support of the contention of the applicant:-

1. Guangdong VTR Bio – tech Co. Ltd., China.
2. Sinochem Yunlong Co. Ltd., China.
3. Hulunbeier Northeast Fufeng Biotechnologies Co. Ltd., China.
4. Ajinomoto Eurolysine S.A.S., USA.
5. Alzchem Nutrition GmbH, Germany.

The expression, "Animal feed and feed supplement", used in the entry 5(i) of the First Schedule to the Act has not been defined or assigned any meaning under the said Act and Rules made thereunder. Therefore, any commodity which is sold as feed and feed supplement for specific class of animals, namely poultry, cattle, pig, fish, prawns and shrimps is covered by the entry of the First Schedule and qualifies for exemption from payment of tax under the Act. Copies of the judgments of the Hon'ble Supreme Court of India in the case of **Commissioner of Sales Tax, Uttar Pradesh V/s Ram Chandra Asha Ram, reported in (2001) 123 STC 415** and in the case of **Sun Export Corporation V/s Collector of Customs, Bombay and Another, reported in (1998) 111 STC 69**, are enclosed in support of the said contention.

The description "Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake" is provided in the exemption Notification No. 2/2017-Integrated Tax (Rate) dated 28th June, 2017, Notification No. 2/2017-Central Tax (Rate) dated 28th June, 2017 and Notification No.2/2017-Union Territory Tax (Rate) dated 28th June, 2017 under HSN codes 2301, 2302, 2308, 2309.

It is evident from the above description that only those animal feed and feed supplements that are named therein are to be treated as covered by this HSN codes and those not named therein are to be excluded from the above HSN codes. A Feed supplement is a commodity that supplements animal feed.

Also it can be noted from import documents that the products are imported and commercially traded as animal feed and feed supplements.

The certificates issued by various companies clearly state that the aforementioned products are used as animal feed and feed supplements and these are not for medicinal use or human consumption. The certificates issued by quality control department of following above said companies are submitted on record.

In the case of **Commissioner of Commercial Taxes, Uttar Pradesh Vs Ram Chandra Asha Ram, reported in (2001) 123 STC 415**, the Hon'ble Supreme Court of India has held that damaged wheat unfit for human consumption and meant for use after processing as food for cattle is classifiable as "cattle fodder". Applying the ratio of the said ruling of the Apex Court the products in which the applicant deals are meant for use as animal feed and feed supplements. That these commodities are covered under any other chapter due to its technical description cannot have effect of excluding these products from the purview of chapter 23 of CGST Act, 2017.

On similar lines various case laws under the Central Excise Act, 1944 was also there. Some of these are described below in brief:-

1. **CCEx. v. Cannought Plaza Restaurant (Pvt) Ltd. 2012 (286) ELT 321 (SC)** (The copy of said judgment is enclosed herewith):- The apex court observed that in the absence of a statutory definition or technical description, interpretation ought to be in accordance with common parlance principle and not according to scientific and technical meanings. It was held that even though softy serve have dairy content but in common parlance it known as 'ice cream' and shall not be classified as 'other dairy produce'. The same principal may be applied in the applicant's case also. That even if as per the technical description the products can be classified under any other heading but the products are finally used as poultry feed supplements.

Shree Baidyanath Ayurved Bhawan Ltd. 2009 (SC) (The copy of said judgment is enclosed herewith):- It was held that Lal Dantmanjan is used routinely for dental hygiene. It is not 'medicament/medicine' as ordinarily medicine is prescribed by medical practitioner and is for limited use only. The same principal may be applied in the applicant's case also. That even if as per the technical description the products can be classified under any other heading but the products are finally used as poultry feed supplements.

3. **CCE v. Wockhardt Life Sciences Ltd. 2012 (277) ELT 299 (SC)** (The copy of said judgment is enclosed herewith):- The apex court observed that the factors to be considered for the purpose of the classification of the goods are the composition, the product literature, the label, the character of the product and the **use to which the product is put to use**.

It is pertinent to note that on the import invoices as well as local procurement invoices, it is specifically mentioned that **"NOT FOR HUMAN/MEDICINAL USE, FOR USE IN ANIMAL FEED ONLY"**

Also NOC has been obtained from Government of India for importing these products. The NOC is issued on the basis that these imported products are to be used in poultry feed supplements. The NOC issued by Government of India has specific restriction that before releasing the consignment by the port office, each container /drum of these products shall be labeled as **"Animal Feed Supplement Only & Not For Medicinal Use"**.

We urge you to please take above facts on record and provide us the clarity on classification of our products under GST regime.

In addition to submissions made earlier, applicant also intends to submit the following:

We Uttara Impex Private Limited ("UIPL" or "Company" or "Applicant" or "We") holding GSTIN 27AABCU0589J120, mainly engaged in trading of various poultry feed products have filed above mentioned application for advance ruling.

In the course of its business the products namely DL Methonine, Bicarbonate, Phytase, Betaine, Monodicalcium, Tryptophan, UT Vit 50, Threonine, Lysine and Creamino are imported by us. The said products are feed supplements for consumptions as poultry feed only and are not capable of being used for any other use.

With respect of above products, the Company has made an application for obtaining advance ruling under section 96 of the CGST Act 2017 to sought the ruling on classification of the goods vide an application dated 17 May 2018 and have also made additional submission on 07 June 2018 and 25 July 2018 providing necessary documents as requested by your good office.

In relation to above, we request you to kindly remove the name of following products in above referred our advance ruling application.

1. Phytase
2. UT VIT 50
3. Creamino
4. Monodicalcium

Further, we herewith request you to kindly add below mentioned products which are also poultry feed additives in the above referred our advance ruling application.

1. Mono Calcium Phosphate
2. Lysine Sulphate
3. Sodium Sulphate

In continuation of above, we herewith submit the following information as required by your office.

Sr. No.	Name Of The Product Imported	Name Of The Supplier	Details Of The Origin Of The Product Imported (Raw Material For The Product)	Process Undertaken by The Supplier	Documentation/ Catalogues
1	DL Methionine	Adisseo	Details not Available/Shared By The Supplier Due To Sensitivity And Confidentiality.	Through Chemical Process.	Catalogue Attached. Kindly Refer Annexure 1.
2	Sodium Bicarbonate	Solvay Chemicals	Soda Ash	The Same is Provided In The Attached. Kindly Refer Annexure 2.	Catalogue attachment. Kindly Refer Annexure 2.
3	Betaine	Healthy (Hangzhou) Husbandry Sci-Tech Co., LTD.	Sodium Carbonate, Chloro acetic Acid, Trimethylamine, Hydrochloric Acid	Neutralization, Amination, Concentration, Crystallization, Centrifugation, And Drying is Undertaken.	atalogue Attached. Kindly Refer Annexure 3
4	Mono Calcium Phosphate (MCP) (feed grade monod calcium phosphate 21%)	Sinochem Yunlong Co., Ltd	Raw Material of The Product Are Phosphorous Rock, Sulfuric Acid And Calcium Carbonate	Supplier Manufactures The Product And Controls Quality By Undertaking FAMIQS And ISO As Required.	Catalogue Attached. Kindly Refer Annexure 4.
5	Tryptophan	Ajinomoto Animal Nutrition (Singapore) Pte. Ltd.	Glucose (Sugar)	Fermentation. Details Are Provided in Annexure 5.	Catalogue Attached. Kindly Refer Annexure 5.
6	Threonine	Changchun dahe bio technology	Corn (Sugar)	Sugar From Corn →Threonine Microorganism Fermentation →Film Filter → Ion Exchange → Evaporation Crystallization	Catalogue Attached. Kindly Refer Annexure 6A.

		development co. Ltd.		Centrifugation Dry → Packing. Details Of The Same Is Provided In Annexure 6A.	
		Ajinomoto Animal Nutrition (Singapore) Pte. Ltd.	Glucose (Sugar)	Fermentation. Details Are Provided in Annexure 6B.	Catalogue Attached. Kindly Refer Annexure 6B.
7	Lysine HCL	Ajinomoto Animal Nutrition (Singapore) Pte. Ltd.	Glucose / Cassava Starch	Fermentation. Details Are Provided in Annexure 7A.	Catalogue Attached. Kindly Refer Annexure 7A.
		Changchun Dahe Bio Technology Development Co. Ltd.,	Corn (Sugar)	Sugar From Corn → Lysine Microorganism Fermentation Film Filter → Ion Exchange Evaporation → Crystallization → Centrifugation → Dry → Packing Detailed Process is Provided in Annexure 7B.	Catalogue Attached. Kindly Refer Annexure 7B.

Applicant submitted the **Details of nature, characteristics and usage of the goods imported by the Company on 23.7.2018.**

In the below table we have provided nature, characteristics and probable usage of the goods imported by the Company. We have examined the same and do hereby certify that the goods as per below table are such which can be used in preparation of poultry feed. These are additives and supplements to poultry feed.

Details of goods, its ingredients and nutrition value is as tabled below –

Sr. No.	Name of product	Ingredients	Nutritional value	Remarks as to why it can be used in poultry feed
1	DL – Methionine (Feed Grade)	Methionine	Act as methyl donor and used in protein synthesis. Essential Amino acid.	Methionine is a limiting and essential amino acid in poultry. so, need to supply through feed as feed supplement to meet standard requirement of birds for their body maintenance and egg/meat production.
2	Sodium Bicarbonate (Feed Grade)	Sodium	To maintain Acid-balance in body (NRC, 1994)	Sodium bicarbonate used as source of sodium to maintain acid-base balance in poultry feed. Sodium required for maintains of dietary electrolyte balance in poultry feed.
3	L-lysine (Feed Grade)	Lysine	Essential Amino acid and used in protein synthesis.	Lysine is a limiting and essential amino acid in poultry so need to supply through feed as feed supplement to meet standard requirement of birds for their body maintenance and egg/meat production.
4	Betaine (Feed Grade)	Betaine	To recycles the Homocysteine (NRC, 1994)	Betaine act as osmolyte and maintains acid-base balance. It is used in poultry feed to avoid environmental stress.
5	Mono calcium Phosphate (Feed Grade)	Calcium and Phosphorus	To shell formation and bone growth.	MCP used as source of calcium and phosphorus to meet the requirement of poultry birds in poultry feed. Poultry birds require calcium and phosphorus for egg shell formation and bone development so need to give more

				supplements through feed. While formulating feed formula, need to maintain Calcium: Phosphorus ratio to get desired result.
6	L-Tryptophan (Feed Grade)	Tryptophan	Essential Amino acid and used in protein synthesis.	Tryptophan is a limiting and essential amino acid in poultry to meet standard requirement of birds for their body maintenance and egg/meat production.
7	L- Threonine (Feed Grade)	Threonine	Essential Amino acid and used in protein synthesis.	Threonine is a limiting and essential amino acid in poultry to meet standard requirement of birds for their body maintenance and egg/meat production.
8	Sodium Sulphate (Feed Grade)	Sodium	To maintain Acid-balance in body	Sodium Sulphate used as source of sodium to maintain acid-base balance in poultry feed. Sodium required for maintains of dietary electrolyte balance in poultry feed.
9	Lysine Sulphate (Feed Grade)	Lysine	Essential Amino acid and used in protein synthesis.	Lysine is a limiting and essential amino acid in poultry so need to supply through feed as feed supplement to meet standard requirement of birds for their body maintenance and egg/meat production.

Source: Requirement of above nutrients are adapted from Applied Nutrition by D V Reddy and research papers.

Further, we have attached herewith following documents for your reference purpose

1. Advance ruling order passed by Government of Karnataka in the case of M/s Max Chem Pharma. Attached herewith as an annexure 10.

2. Case of 'Commissioner of cus. (Imports), Chennai vs. Alpharma (Belgium) BVBA' in which it is clarified that, "Animal Feed Supplements items are to be classified under Tariff Item 2309 90 90". Attached herewith as an annexure 11.

We have attached relevant documents for each materials herewith for your reference purpose.

Prayer:

On the basis of above request you to kindly classify the product mentioned above in chapter no. 23 and provide an exemption.

Request you to acknowledge the submission of the aforesaid documents and allow opportunity in person in case of any clarification or concern.

03. CONTENTION – AS PER THE CONCERNED OFFICER SUBMITTED--

The submission, as reproduced verbatim, could be seen thus-

It is submitted that, Issue on which advance ruling is required:

QUESTION FOR ADVANCE RULING - CLASSIFICATION OF GOODS.

UTTRA IMPEX PRIVATE LTD is engaged in trading of various poultry feed products But company is facing some ambiguity in correct classification of Products (which are those products is not specified in question). In companies view products shall be covered under the HSN CODES 2301, 2302, 2308, 2309 AND effectively products will be exempted. However due to technical description of the products, there can be another school of thought and the tax may be levied at different rates by revenue authorities on the said products.

SUBMISSION AND VIEW OF JURISDICTIONAL OFFICER--

From the reading of application/ANNEXTURES submitted by the dealer, it is observed that;

1) The dealer is trading in Poultry feed products which are covered by CGST notification NO.2/2017 On which whole of central tax is exempted. The relevant entry is as follows

Sr. No.	Chapter Heading	Description of goods.
102	2303,2304,2305,2306,2308,2309	Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and husk of pulses, concentrate and additives, wheat bran and de-oiled cake.

2) But there are other related/similar commodities which are imported by dealer on which GST is levied. These commodities are:

commodities	HSN CODE	GST RATE	REMARK BY OFFICER
DL METHONINE	29304000	12	It is oregano sulphur compound, covered under HSN CODE 2930. NOT INCLUDED UNDER POULTRY FEED.
BICARBONATE	30049032	12	It is a medicaments covered under HSN 3004. NOT INCLUDED UNDER POULTRY FEED
UT VIT 50			NOT INCLUDED UNDER POULTRY FEED
LYSINE	29224100	12	IT IS AMINO COMPOUND COVERED UNDER HSN 2922. NOT INCLUDED UNDER POULTRY FEED
PHYTASE	3567		IT IS PHOSPHATASE ENZYME AND INORGANIC COMPOUND MAY BE COVERED UNDER HSN 3567 NOT INCLUDED UNDER POULTRY FEED.
MONODICALCIUM	28352610		MONOCALCIUM IS FEED GRADE PHOSPHATE MAY COVERED UNDER HSN 2835. NOT INCLUDED UNDER POULTRY FEED

3) According to the dealer, he is importing and supplying these goods on which GST is levied, which are related/similar to Poultry feed. These goods though not included in above mentioned poultry feed CGST notification NO.2/2017, GST shall not be levied on these goods also. According to dealer on the import documents, it is specified that these products are not for food or not for human consumption and those are of feed grade category, hence shall be classified under poultry feed and shall get exemption from GST.

4) Tax under GST levied as per commodity classified under HSN CODE and as per notification under the law only commodities covered by HSN CODE NO. 2302, 2304, 2305, 2306, 2308 and 2309 are classified as POULTRY FEED and exempted from GST. Thus while classifying poultry feed, law has excluded some entries like 2303/2307 from same HSN CHAPTER NO 23. On this background commodities which are classified and declared as taxable under HSN NO 2930/2922/3004 CANNOT BE CLASSIFIED AS POULTRY FEED.

5) The dealer's contention is not tenable. There are specific HSN codes and specific tax Rate entries for all these products. The products which are mentioned in the above table are not poultry feed and shown under separate entry which are taxed accordingly. Simply due to the reason of not for human consumption or not of food grade quality, these products cannot be classified under POULTRY FEED and cannot be exempted from GST.

04. HEARING

The case was scheduled for 27.06.2018 for Preliminary hearing, Sh. Bhadresh Vyas, Advocate along with Sh. Nagesh Jadhav, Advocate, Sh. Milind Phatak, G.M. Accounts and Sh. Sharad Kumawat, PGM Operations and Sh. Rushabh Gondha, C.A. appeared and requested for admission of application as per details in their application. During hearing Jurisdictional Officer Sh. Prakash Pote, Dy. Commr. Of S.T. (E-701), Pune appeared and made written submissions.

The application was admitted and called for final hearing on 25.07.2018, Sh. Bhadresh Vyas, Advocate along with Sh. Milind Phatak, G.M. Accounts and Sh. Sharad Kumawat, PGM Operations and Sh. Rushabh Gondha, C.A. and Sh. Arjun Madnurkar, Sr. Technical Manager appeared and made oral and written submissions. They were requested to give detailed write-up, Catalogue and composition of the products under present proceedings and whether they are of chemical origin or otherwise individually latest by 12.08.2018 without fail. The Jurisdictional Officer was not present but telephonically informed that their earlier submissions may be relied upon.

05. **OBSERVATIONS--**

We have gone through the facts of the case and the submissions made by the applicant and the department. We find that :-

1) "Applicant" is mainly engaged in trading of various poultry feed products. In the course of its business the products namely DL Methionine, Bicarbonate, Phytase, Betaine, Monocalcium, Tryptophan, UT Vit 50, Threonine, Lysine and Creamino are imported by the applicant. Applicant submits the said products are feed supplements for consumption as poultry feed only and are not capable of being used for any other use. As per the contention of the applicant, above products are feed supplements for poultry and therefore covered under entry Sr. No. 102 of exemption notification issued under GST. The relevant notification is as below,

Entry Sr. No. 102 of Notification No 2/2017 of the -IGST read as below:

“Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake”.

Applicant has submitted list of products including products in the nature of additives for decision by Advance Ruling Authority. The list of such products is already mentioned in this order at statement of facts and additional submission. From the detailed scrutiny of aforesaid entry and the products covered by the application, we are required to decide whether these products can be considered as poultry feed, cattle feed, supplement, concentrate and additives. We have to take call on whether impugned products are covered by the description of goods mentioned in the entry - 102 and in particular poultry feed, cattle feed, supplement, concentrate and additives. We also find that other products covered by the said entry are self-explanatory and require no discussion. Further we find that the expression which are central point of discussion i.e. poultry feed, animal feed, supplement, concentrate and additives are not defined in the statute or in the notification issued under the Act. As such we may refer the Wikipedia or dictionary to understand these expressions:

Definition of feed – as per dictionary

to furnish something essential to the development, sustenance, maintenance, or operation of reading feeds the mind

CAMBRIDGE DICTIONARY

to give food to a person, group, or animal

As per WIKIPEDIA

Animal feed

Animal feed is food given to domestic animals in the course of animal husbandry. There are two basic types: fodder and forage. Used alone, the word "feed" more often refers to fodder.

Fodder

"Fodder" refers particularly to foods or forages given to the animals (including plants cut and carried to them), rather than that which they forage for themselves. It includes hay, straw, silage, compressed and pelleted feeds, oils and mixed rations, and sprouted grains and legumes.

Wikipedia, the free Encyclopedia

Forage

"Forage" is plant material (mainly plant leaves and stems) eaten by grazing livestock.

SUPPLEMENT:

CAMBRIDGE ENGLISH DICTIONARY

Something that is added to something else in order to improve it or complete it; something extra

OXFORD LIVING DICTIONARY:

A thing added to something else in order to complete or enhance it.

Feed additive

From Wikipedia, the free encyclopedia

A feed additive is a food supplement for farm animals that cannot get enough nutrients from regular meals. Such additives include vitamins, amino acids, fatty acids, and minerals.

Definition of concentrate feeds: AS PER FAO (Food and agriculture Organization)

Feeds may be broadly classified as concentrates and roughages, depending on their composition. Concentrates are feeds that contain a high density of nutrients, usually low in crude fiber content (less than 18% of dry matter (DM)) and high in



total digestible nutrients. Roughages are feeds with a low density of nutrients, with a crude fiber content over 18% of DM, including most fresh and dried forages and fodders.

Concentrates may be high in energy, referred to as energy concentrates, such as cereals and milling by-products, or high in protein, with over 20% crude protein, referred to as protein concentrates. Concentrates may be fed in raw or milled forms as individual feeds (sometimes referred to as straights), or may be blended or formulated into balanced rations for particular production purposes (compound

CONCENTRATE MEANING

MERRIAM WEBSTER DICTIONARY

a feedstuff (such as grains) relatively rich in digestible nutrients

ADDITIVES MEANING:

CAMBRIDGE ENGLISH DICTIONARY

a substance that is added to food in order to improve its taste or appearance or to keep it fresh and stop it from decaying:

OXFORD ENGLISH DICTIONARY

A substance added to something in small quantities to improve or preserve it.

MERRIAM WEBSTER DICTIONARY

a substance added to another in relatively small amounts to effect a desired change in properties

Feed additive

From Wikipedia, the free encyclopedia

A feed additive is a food supplement for farm animals that cannot get enough nutrients from regular meals. Such additives include vitamins, amino acids, fatty acids, and minerals.

A sum of all above reveal that animal feed is food given to animal which is essential to the development, sustenance, maintenance etc. On the contrary supplement is added to animal feed in order to improve it or make it complete feed. Similarly additive is a food supplement for farm animal that cannot get enough nutrients from regular meals. Therefore there are large number of products that are added to feed and which are capable of providing nutrient required for animal based upon the nature of husbandry such as meat, milk, egg etc.



Further we find that entry 102 of the exemption notification is not open ended. It cover those goods that are falling under chapter Heading 2301, 2302, 2304,2305,2306,2308 and 2309 and which satisfy the description of goods as animal feed, supplement, concentrate and additives. These imported goods alone are eligible to avail the benefit of tax exemption under the GST ACT. It is therefore imperative to examine in detail chapter 23 of the CET -

We find that Chapter 23 is related to the "Residual and Waste from the food Industries prepared Animal fodder" and therefore goods classifiable under the tariff codes as stated above are only covered and eligible for exemption benefit under entry no. 102 of the exemption notification mentioned above. Thus the benefit under Entry No. 102 is restricted as above:-

We find that the details of tariff code (HSN) and its description as per tariff are as under:

S. No. of Notification	Chapter / Heading / Sub-heading / Tariff Item	Description as per Notification	Heading Description in Custom Tariff	DETAILED CUSTOMS TARIFF HEADING/SUB HEADING COVERED FOR THE ENTRY
1	2	3	4	5
102	2301, 2302, 2304, 2305, 2306, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than rice-bran]	2301 FLOURS, MEALS AND PELLETS, OF MEAT OR MEAT OFFAL, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES, UNFIT FOR HUMAN CONSUMPTION; GREAVES	<p>2301. FLOURS, MEALS AND PELLETS, OF MEAT OR MEAT OFFAL, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES, UNFIT FOR HUMAN CONSUMPTION; GREAVES</p> <p><i>Flours, meals and pellets, of meat or meat offal; greaves :</i></p> <p>2301 10 - Meat meals and pellets (including tankage)</p> <p>2301 10 10 ---</p> <p>2301 10 90 --- Other (including greaves)</p> <p><i>Flours, meals and pellets, of fish or of crustaceans, molluscs or other aquatic invertebrates :</i></p> <p>2301 20 - <i>Fish meal, unfit for human consumption:</i></p> <p>---</p> <p>2301 20 11 - In powder form</p> <p>---</p> <p>2301 20 19 - Other</p> <p>2301 20 90 --- Other</p>

			<p>2302 BRAN, SHARPS AND OTHER RESIDUES, WHETHER OR NOT IN THE FORM OF PELLETS, DERIVED FROM THE SIFTING, MILLING OR OTHER WORKING OF CEREALS OR OF LEGUMINOUS PLANT</p>	<p>2302 BRAN, SHARPS AND OTHER RESIDUES, WHETHER OR NOT IN THE FORM OF PELLETS, DERIVED FROM THE SIFTING, MILLING OR OTHER WORKING OF CEREALS OR OF LEGUMINOUS PLANTS</p> <p>2302 10 - <i>Of maize (corn) :</i> 2302 10 10 --- Maize bran 2302 10 90 --- Other 2302 30 00 - Of wheat 2302 40 00 - Of other cereals Of leguminous 2302 50 00 - plants</p>
			2304	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya bean oil
			2305	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of ground-nut oil
			2308 00 00	<p>2308 00 00 VEGETABLE MATERIALS AND VEGETABLE WASTE, VEGETABLE RESIDUES AND BY-PRODUCTS, WHETHER OR NOT IN THE FORM OF PELLETS, OF A KIND USED IN ANIMAL FEEDING, NOT ELSEWHERE SPECIFIED OR INCLUDED</p>
			2309-	PREPARATIONS OF A KIND USED IN ANIMAL FEEDING



102B	2306	Cotton seed oil cake	OIL-CAKE AND OTHER SOLID RESIDUES, WHETHER OR NOT GROUND OR IN THE FORM OF PELLETS, RESULTING FROM THE EXTRACTION OF VEGETABLE FATS OR OILS, OTHER THAN THOSE OF HEADING 2304 OR 2305	2306	OIL-CAKE AND OTHER SOLID RESIDUES, WHETHER OR NOT GROUND OR IN THE FORM OF PELLETS, RESULTING FROM THE EXTRACTION OF VEGETABLE FATS OR OILS, OTHER THAN THOSE OF HEADING 2304 OR 2305
				2306 10	- <i>Of cotton seeds :</i>
					-- Oil-cake and oil-cake meal, decorticated
				2306 10 10	- expeller variety
					--
				2306 10 20	- Oil-cake and oil-cake meal, decorticated, solvent extracted (defatted) variety
					-- Oil-cake and oil-cake meal,
				2306 10 30	- undecorticated, expeller variety
					-- Oil-cake and oil-cake meal,
				2306 10 40	- undecorticated, solvent extracted (defatted) variety
					--
				2306 10 90	- Other
				2306 20	- <i>Of linseed :</i>
					-- Oil-cake and oil-cake meal, expeller
				2306 20 10	- variety
					-- Oil-cake and oil-cake meal, solvent
				2306 20 20	- extracted (defatted) variety
					--
				2306 20 90	- Other



Further applicant as per instructions during the course of proceedings had made submission with respect to each of his products such as Name of supplier, origin, process under taken by the supplier and catalogue.

On the basis of above, it is evident from the description of animal feeds that only those products that merit classification in the corresponding to HSN code as per details above are eligible for exemption from payment of GST vide entry 102 of the exemption notification. On perusal of chapter 28 & 29 of the Customs Tariff Act we find that goods covered therein are Organic and in organic chemicals and further we find that the products requested for classification in ARA are squarely covered by chapter 28 and 29 of the Customs Tariff Act as below:

However as regard product Mono calcium Phosphate (MCP) (feed grade Monod calcium phosphate 21%) and Mono-Di Calcium Phosphate, applicant submit that it is

added to feed as supplement for better shell formation and bone growth. Applicant further submit on the basis of certificates issued by various companies/Authorities and the quality control department that MCP is used as animal feed and feed supplement and that it is not for medical use or human consumption. And thus covered by Sr. No. 105 of exemption notification of 2 /2017.

We reproduce the relevant HSN Chapter Heading as below:-

105	2835	Dicalcium phosphate (DCP) of animal feed grade conforming to IS specification No.5470 : 2002	PHOSPHINATES (HYPOPHOSPHITE S), PHOSPHONATES (PHOSPHITES) AND PHOSPHATES; POLYPHOSPHATES, WHETHER OR NOT CHEMICALLY DEFINED	2835 2835 10 2835 10 10 2835 10 20 2835 10 90 2835 22 00 2835 24 00 2835 25 00 2835 26 2835 26 10 2835 26 20 2835 26 90 2835 29 2835 29 10 2835 29 20 2835 29 30 2835 29 40 2835 29 90 2835 31 00 2835 39 00	PHOSPHINATES (HYPOPHOSPHITES), PHOSPHONATES (PHOSPHITES) AND PHOSPHATES; POLYPHOSPHATES, WHETHER OR NOT CHEMICALLY DEFINED - <i>Phosphinates (hypophosphites) and phosphonates (phosphites) :</i> -- - Calcium hypophosphite -- - Magnesium hypophosphite -- - Other - <i>Phosphates :</i> -- Of mono-or disodium -- Of potassium -- Calcium hydrogenorthophosphate ("dicalcium phosphate") -- <i>Other phosphates of calcium :</i> -- - Calcium monobasic phosphate -- - Calcium tribasic phosphate -- - Other -- <i>Other :</i> -- - Magnesium phosphate, monobasic -- - Magnesium phosphate, dibasic -- - Magnesium phosphate, tribasic -- - Sodium hexametaphosphate -- - Other - <i>Polyphosphates :</i> -- Sodium triphosphate (sodium tripoly-phosphate) -- Other
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From the above table we find that the description of goods against chapter Heading 2835 as mentioned at Sr. No. 105 of exemption notification 2/2017 Integrated Tax (Rate) dated 28/6/2017 covers only Di calcium Phosphate (DCP) of animal feed grade conforming to IS specification No. 5470:2002. As such applicant product Mono calcium phosphate is not covered by the scope of exemption notification No. 2/2017 - Integrated Tax (Rate).

In view of above discussion and on perusal of chapter 28 and 29 of Customs Tariff Act we are of opinion that the products referred by the applicant in the application will not be covered under Entry- 102 but would be covered under chapters like 28 and 29. Those chapters are related to Organic and inorganic chemicals. Chapter 28 and 29 are not covered under exemption

notification no 2/2017 date .28.6.2017 except the HSN Code of 2835. We find that product referred in the application would fall under Heading description in Customs Tariff as follows:

DL Methionine(29304000), Sodium Bicarbonate (28363000), Betaine HCL,(29239000), Tryptophan (29224990), Threonine (29225090), Lysine HCL (29224100), Sodium Sulphate (28331990), Lysine sulphate (29224100) and Monocalcium Phosphate (28352610). These products are covered under schedule III and they would be liable to taxes @18 % IGST. However the product Di Calcium phosphate (2835 2610) would fall under Sr. no. 105 of notification no 2/2017 Integrated Tax (Rate) dated 28/06/2017.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 25/2018-19/B-

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Mumbai, dt. 14/08/2018

For reasons as discussed in the body of the order, the questions are answered thus -
Question: - classification of our products under GST regime

Answer :- The products referred under application are not covered under entry 102 of the notification 2/2017-Integrated Tax (Rate) dated 28th June, 2017, except Di Calcium phosphate(28352610) of animal feed grade, which is covered under Entry No. 105 of Notification No 02/2017-(Integrated Tax) (Rate) The rest of products would fall under Schedule III and would be liable to tax @ 18 % IGST.



—sd—
B. V. BORHADE
(MEMBER)

—sd—
PANKAJ KUMAR
(MEMBER)

CERTIFIED TRUE COPY

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Jurisdictional Commissioner of Central Tax.
5. Joint commissioner of State Tax, Mahavikas for Website.


MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai - 400021