

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH

Goods and Service Tax()

O/o THE COMMISSIONER, COMMERCIAL TAX,

MOTI BUNGALOW,

MAHATMA GANDHI MARG, INDORE (M.P.) - 452007

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PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING

U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017

Members Present

1. Rajiv Agrawal

Additional Commissioner,

Office of the Commissioner, CGST and Central Excise, Indore

2. Manoj Kumar Choubey

Joint Commissioner,

Office of the Joint Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AAPFP5853P1ZG
Name and address of the applicant	M/s. PREM GHAN PRODUCTS 233/41, Marble Mandi, Nemawar Road, Palda, Indore – 452001
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	a. Classification of any goods or services or both
Present on behalf of applicant	Shree Arpit Mundra, CA and Shree Vikas Goel, Partner
Case Number	16/2018
Order dated	23.10.18
Order Number	17/2018

PROCEEDINGS

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and MP Goods & Services Tax Act, 2017 (hereinafter also referred to CGST Act and MPSGT Act respectively) by M/S Prem Ghan Products (hereinafter also referred to as applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a



reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE –

- 3.1. M/s. Prem Ghan Products, Indore [hereinafter referred to as the Applicant] is engaged in the manufacture, supply and trading of various types of mouth fresheners (after mixing Kharak, Khopra, Sugar, Saunf, Mishri, fennel, Dates, Saccharin, menthol, Papaya fruit, or natural flavouring substances). The Applicant procures various raw materials like betelnut, sugar, kharak, menthol, mishri etc. and after mixing the resultant product is sold in market under various product names. The Applicant is having a GST registration with GSTIN **23AAPPF5853P1ZG**.
- 3.2. The applicant, as mentioned in the application, has been classifying the impugned product under chapter heading 2106 of HSN as 'Miscellaneous Edible Preparations not elsewhere specified or included' and discharging GST @18% Adv. on supply of such product.
- 3.3. Prior to roll out of GST, i.e. prior to 01.07.2017, the applicant had been carrying out the same business and classifying and clearing/selling the impugned product under Chapter Heading 2106 of the schedule to the Central Excise Tariff Act 1985, and the applicant had been duly registered with the Central Excise Department.
- 3.4. The Applicant has contended that there are other major market players in this field who are dealing in similar products under the brand names 'Chutki', 'Paas Paas', 'Mastana Mouth Freshner' etc., and these particular products are being classified under Chapter 20 of the HSN attracting GST @12%.
- 3.5. The Applicant have further submitted that in light of the similar products of other manufacturers being classified under Chapter 20, the impugned product of the Applicant would also merit classification under Chapter 20 instead of prevailing Chapter 2106.
- 3.6. It has been reiterated in the Application that the classification of the product of the Applicant under Chapter 2106 in line with the Central Excise Law and Central excise Tariff. However, Applicant has contended that the raw materials being used in manufacturing impugned product are not specified in GST tariff by name 'Mouth Freshener'.
- 3.7. In view of above, the Applicant has filed the instant application seeking clarification on classification of their product which is manufactured and sold by mixing various raw materials/inputs as already detailed in foregoing paras. The applicant has adduced that other manufacturers are classifying similar products under chapter 20 attracting GST @12%, while the Applicant has been supplying the impugned product under Chapter 2106 attracting gst @18%.



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4. QUESTIONS RAISED BEFORE THE AUTHORITY:

The following questions have been posted before the Authority :-

Whether the goods manufactured (i.e. various types of mouth freshners) by the Applicant and sold prepared by mixing various inputs/raw materials like *kharak, sugar, khopra, sounf, fennel, dates, mishri, saccharin, menthol, papaya fruit, or natural flavouring substances*, are liable to be classified under Chapter 21 i.e. 'Miscellaneous Edible Preparations' – 2106 (food preparations not elsewhere specified or included) and taxed at 18% GST as currently followed or under Chapter 20 i.e. 'Preparations of Vegetable, fruit, nuts or other parts of plants' and taxable at 12% GST?

5. DEAPRTMENT'S VIEW POINT:

The Concerned Officer of the Madhya Pradesh Commercial Tax Department viewed that the impugned commodity doesn't fall under Chapter 20 i.e. 'Preparations of Vegetable, fruit, nuts or other parts of plants' and taxable at 12% GST, but it comes under CHS 2106 i.e. food preparation not elsewhere specified or included.

6. RECORD OF PERSONAL HEARING:

- 6.1. Shree Arpit Mundra, CA and Shree Vikas Goel, Partner, appeared on behalf of the applicant for Personal Hearing and he reiterated the submissions already made in the application.

7. DISCUSSIONS AND FINDINGS:

- 7.1. We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing. At the outset, we find that the issue raised in the Application is squarely covered under Section 97(2)(a) of the CGST Act 2017 and MPGST Act 2017 being a matter related to classification of goods, and the applicant have complied with the all the requirements for filing this application as laid down under the law. We therefore admit the application for consideration on merits.

- 7.2. We find that the present application seeks Ruling on appropriate classification of goods manufactured by the Applicant and marketed and supplied as Mouth Fresheners. The Applicant have submitted that they have been manufacturing and supplying the impugned item by classifying the same under Chapter 2106 of the HS Code paying GST @18%. It has been admitted and revealed by the Applicant that even during the pre-GST regime they had been clearing the impugned product under Chapter Head 2106.

- 7.3. We further observe that the Applicant has been clearing/selling/supplying the impugned product under Chapter 21016 since long, i.e. much prior to roll out of GST



with effect from 01.07.2017. We also take a note of the fact narrated by the Applicant in Para 2 of Annexure 04 (Statement containing the applicant's interpretation of law and facts) of the Application, which says, '*The classification of the assessee's finished product under chapter heading 2106 is in line with the classification under Central Excise Law and Central Excise Tariff*'. This statement of the Applicant is enough to conclude that there was no dispute regarding classification of the impugned product during pre-GST regime.

- 7.4. We find that while the impugned product was being classified under Chapter Head 2106 of the erstwhile Central Excise Tariff Act 1985, there is neither any change in ingredients nor any change in manufacturing process. To be precise, the impugned product remains the same in GST regime with no change from pre-GST regime.
- 7.5. The solitary reason for the Applicant in moving instant application, as we could gather from the contents of the application, appears to be alleged divergent practice of classification of similar products of some other manufacturers. Be that as it may, nothing concrete has been brought on record by the Applicant that would necessitate review of already established classification of the impugned product of the Applicant.
- 7.6. It is also necessary to emphasize here that the classification of goods under GST regime, or even under pre-GST era, has Harmonised System of Nomenclature at the fulcrum and there is no instance when a particular commodity would find different classification under pre-GST and GST regime.
- 7.7. In the given circumstances, when there is no physical change in the ingredients/inputs/raw materials used in production/manufacture of the impugned goods viz. Mouth Freshener, we do not find any reason in reviewing the established and settled classification of impugned goods.
- 7.8. Having observed as above, we hold that the impugned goods shall be aptly classifiable under Chapter Head 2106 and would attract prevailing rate of GST @18% [(9% CGST + 9% SGST) or 18% IGST as the case may be], as 'Food preparations not elsewhere specified or included', in terms of Notification No.01/2017-Central Tax (Rate) and Corresponding notification under The MPGST Act 2017 the entry number 23 of Schedule III to the said notification.

RULING

8. The Advance Ruling on question posed before the authority is answered as under:



8.1 The product Mouth freshener as described in the Application will merit classification under Chapter Heading 2106 of the GST Tariff as 'Food preparations not elsewhere specified or included' and would be chargeable to GST at applicable rate under the said tariff entry, presently readwith Notification No.01/2017-Central Tax (Rate) dtd.28.06.2017 and the corresponding notification under MPGST Act 2017 (Sr. No.23 to Schedule III).

8.2 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

-sd-
RAJIV AGRAWAL
(MEMBER)

No. 17/2018/A.A.R/R-28/47

Copy to:-

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

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MANOJ KUMAR CHOUBEY
(MEMBER)

INDORE dt. 23/10/2018

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