

**KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING
6TH FLOOR, VANJIYA THERIGE KARYALAYA
KALIDASA ROAD, GANDHINAGAR, BANGALORE 560009**

(Constituted under Section 99 of the Karnataka Goods and Services Tax Act, 2017 vide Government of Karnataka Order No FD 47 CSL 2017, Bengaluru, dated 25-04-2018)

BEFORE THE BENCH OF
Shri. D.P. NAGENDRA KUMAR, Member
Shri. M.S. SRIKAR, Member

ORDER NO:-KAR/AAAR/05 / 2019-20

Dated:-24.12.2019.

Name and address of the appellant	M/s S.K. Aagrotechh, Survey No. 114, Gottigehalli Road, Kaggalalli, Kanakapura Taluk, Ramanagar District
GSTIN or User ID	29ADBFS9479D1ZK
Advance Ruling Order against which appeal is filed	Advance Ruling No KAR ADRG 49/2019 Dated:18.09.2019
Date of filing appeal	23.10.2019
Represented by	Mr. T.R Venkateswaran, Authorized Representative
Jurisdictional Authority – Centre	Principal Commissioner, Central GST West Commissionerate
Jurisdictional Authority – State	LGSTO—155, Ramanagar
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details.	Yes. Payment of Rs. 20,000/- made vide Challan CIN SBIN19102900356705 dated 21.10.2019

PROCEEDINGS

(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)

At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act, 2017 and the Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act, 2017 and KGST Act, 2017) 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 corresponding similar provisions under the KGST Act.

The present appeal has been filed under Section 100 of the CGST Act, 2017 and the KGST Act, 2017 by S.K. Aagrotechh, Survey No. 114, Gottigehalli Road, Kaggalalli, Kanakapura Taluk, Ramanagar District (hereinafter referred to as 'Appellant') against the Advance Ruling No KAR ADRG 49/2019 dated 18.09.2019 pronounced by the Karnataka Authority for Advance Ruling.

Brief facts of the case:

1. The Appellant is a partnership firm and is a wholesale dealer in edible oil. The Appellant also manufactures Pooja Oil which is primarily a mixture of rice bran oil, sesame oil (gingelly oil), coconut oil, castor oil and mahua oil. A small quantity of fragrance is also mixed only for giving fragrance.

2. The GST rate Notification No. 1/2017-Central Tax (Rate) dated 28.07.2017 specifies two different entries for tariff heading 1518. Entry number 90 of Schedule-I of the said notification (GST rate of 5%) covers all types of vegetable fats and oils which have undergone processes like boiling, oxidization, dehydration etc. This entry specifically excludes those oils falling under tariff head 1516. The relevant entry reads as under:

Schedule I – 2.5%

<i>Sl.No.</i>	<i>Chapter /Heading /Sub-heading / Tariff item</i>	<i>Description of Goods</i>
90.	1518	<i>Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516</i>

3. On the other hand, entry number 27 of Schedule-II of the notification (GST rate of 12%) covers animal fats and animal oils. The entry also covers inedible mixtures or preparations of animal or vegetable fats or oils, not elsewhere specified. The relevant entry is as below:

Schedule II – 6%

<i>Sl.No.</i>	<i>Chapter /Heading /Sub-heading /Tariff item</i>	<i>Description of Goods</i>
27.	1518	<i>Animal fats and animal oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown,</i>

		<i>polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included</i>
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4. The Appellant had filed application before the Authority for Advance Ruling, Karnataka (hereinafter referred to as "Authority") on 09.10.2018 seeking clarification on:

"Whether pooja oil can be classified under tariff item 1518 of Schedule-I (taxable at 5%) or Schedule-II (taxable at 12%) of Notification No. 1/2017-Central Tax (Rate) dated June 28, 2017, as amended from time to time?"

5. On examination of the issue, the Karnataka Authority for Advance Ruling vide Order No KAR ADRG No 49/2019 dated 18.09.2019, gave a ruling as follows:

"The "Pooja Oil", classified under tariff heading 1518, being inedible mixture gets covered under entry number 27 of Schedule -II of the Notification No 01/2017-CT (R) dated 28.06.2017, as amended, and hence is taxable at 6% under CGST Act, 6% under KGST Act and 12% under the IGST Act."

6. Being aggrieved by the ruling of the Authority, an appeal was preferred before Appellate Authority for Advance Ruling under section 100 of the CGST Act, 2017 / KGST Act, 2017 on 23.10.2019 on following grounds:

6.1. Chapter Heading 1518 covers vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516. It is therefore clear that entry 90 of Schedule I of the rate notification covers the following products:

- It covers all types of vegetable fats and oils;
- It also covers vegetable oils and fats in fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas form;
- This entry further seeks to cover such vegetable oils and fats which are chemically modified;
- It, however, excludes such oils which are falling under Chapter Heading 1516.

6.2 They submitted that this entry covers only vegetable fats and oils and that such oils could be chemically modified; that this entry does not make a distinction between edible

grade and inedible grade oils. Therefore, any vegetable oil which is chemically modified even if inedible is covered under the said entry.

6.3 The Appellant submits that the product "Pooja Oil" is primarily made up of 5 edible oils, namely, rice bran oil, coconut oil, castor oil, mahua oil and gingelly oil, which are vegetable fats/oils and not animal fats/oils. Therefore, the product in question should be classified under the more specific entry, which is the entry under Schedule-I.

6.4 Chapter Heading 1518 of Schedule II covers animal fats and animal oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; and inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included; that Chapter Heading 1518 of Schedule II covers products which are not specified or included under any other heading. In this regard, the Appellant submits that since the Pooja Oil is specifically covered under Sl. No. 90 of Schedule I, the same should not be classified under Schedule II.

6.5 The Appellant submits that the entry contained in Schedule II is a generic entry and it seeks to cover primarily animal fats and oils. It also includes vegetable fats and oils which are inedible mixtures or preparations. However, Schedule I specifically covers all such vegetable oils, whether or not chemically modified.

6.6 They relied on Rule 3(a) of the General Rules of Interpretation ("GIR") of the Import Tariff, which states that the most specific description shall be preferred over headings providing a more general description. As per Rule 3(a) of the GIR, if a product can be classified under two or more different HSN codes, then the same should be classified under the HSN code which is more specific to the product and not under the code containing a general description.

6.7 Further, the Appellant also places reliance on the judgement given by the Hon'ble Supreme Court of India in the case of "**Commissioner of Central Excise, Delhi-IV vs Sandan Vikas (I) Ltd**", where the Hon'ble Apex Court held that specific entry will prevail over the general entry. Further, it is a settled principle of law that when a product can be classified under two or more entries, then, the more specific entry should be considered over the general entry and the product should be classified accordingly. They submitted that in the present case also, since the entry contained in Schedule I is more specific and covers all kinds of vegetable oils, whether or not chemically modified and whether or not such vegetable oils are edible. Hence, the pooja oil manufactured by the Appellant out of the vegetable oils merit classification under Schedule I of Chapter Heading 1518.

6.8 They submitted that the entry under Schedule-I does not specifically mention about the vegetable fats or oils being edible or inedible, which means that both edible and inedible oils are covered under this entry, provided the other criteria are fulfilled.

6.9. If the intention of the Government was to cover either edible oils or inedible oils, the same would have been mentioned specifically in the description, as can be observed in the description of other entries like 1517, wherein edible fats or oils has been categorically excluded. The Appellant submits that the product in question is inedible and meets the other conditions for qualifying classification under this entry.

6.10 In view of the above, the Appellant is of the view that the product, more appropriately, falls under tariff head 1518 mentioned under entry 90 of Schedule-I of the rate notification and therefore, taxable at 5%.

6.11. Without prejudice to the above argument that the pooja oil manufactured by the Appellant merits classification only under entry 90 of Schedule I of the rate notification, the Appellant submits that it is a settled principle of law that when a product qualifies classification under two or more different tariff heads, then, the classification which is more beneficial to the assessee can be adopted. Reliance is placed on the following judgements passed by the Supreme Court of India in support of their case:

- a) Share Medical Care vs. Union of India [2007 (209) E.L.T. 321 (S.C.)].
- b) H.C.L Limited vs. Collector of Customs, New Delhi [2001 (130) E.L.T. 405 (S.C.)]
- c) Collector of Central Excise vs. Indian Petrochemicals [1997 (92) E.L.T. 13 (S.C.)]

6.12 They submitted that whereas under the Customs law, animal or vegetable fats and oils are part of the same entry i.e. 1518, under the GST regime a conscious decision has been made by the GST Council to split the said entry between vegetable fats and oils and animal fats and oil by including vegetable fats and oil under Schedule-I of the Notification which provides for lower GST rate of 5% and animal fats and oils under Schedule-II to the Notification.

6.13 Insertion of a specific and separate entry in the GST rate schedule in respect of vegetable fats and oils clearly brings out the intention of the legislature and the GST Council to tax vegetable fats and oils at a lower rate of 5%. Given the above, the Appellant submits that in view of the specific entry under the GST provisions, the product "Pooja Oil" should fall under Schedule-I and should be taxable at 5%.

6.14 They relied on an advance ruling on a similar issue passed by the Andhra Pradesh Authority for Advance Ruling in the case of M/s Agarwal Industries Pvt Ltd. In this case, the Advance Ruling Authorities have ruled that the classification of 'Energy-G premium oil' is HSN 1518 and is subject to 5% GST. In the case of Agarwal Industries, the issue to be determined was whether Energy-G premium Oil manufactured by the assessee out of vegetable oils merits classification under Schedule-I or Schedule-II. The Advance Ruling Authorities, in the present case, observed that since the product under question is manufactured out of Vegetable fats/ oils and not from animal fats/ oils, therefore, the correct HSN Code of "Energy-G premium Oil" is HSN 1518 vide S. No. 90 of Schedule I of

Notification No. 1/2017-C.T. (Rate), dated 28-6-2017 and hence the applicable rate of tax is 5%.

6.15 The Appellant understands that an Advance Ruling passed for an assessee is binding only on that assessee and does not have a binding force on other assessee. However, the same has been relied upon by the Appellant only to reiterate the fact that where the oil is manufactured out of vegetable oils and whether or not it is chemically modified, the same merits classification under Schedule-I under tariff heading 1518. The Appellant submits that the product manufactured by the Appellant which is known by the name "Pooja oil" is also a similar kind of product, which is manufactured by mixing various vegetable oils (like rice bran oil, sesame oil etc.) in appropriate quantities. The product "Pooja oil" does not contain any animal fats/oils in any quantity.

6.16. They contended that the impugned order has erred in concluding that, addition of fragrance (perfume) to the mixture of oil makes it inedible; that inedible mixture of vegetable oils is specifically covered under tariff heading 1518 under Sl. No. 27 of Schedule-II of the Notification. The Appellant submits that the entry contained in Schedule II is a generic entry and it seeks to cover primarily animal fats and oils. It also includes vegetable fats and oils which are inedible mixtures or preparations. However, Schedule I specifically covers all such vegetable oils, whether or not chemically modified. Since the entry contained in Schedule I is more specific and covers all kinds of vegetable oils, whether or not chemically modified and whether or not such vegetable oils are edible. Hence, the pooja oil manufactured by the Appellant out of the vegetable oils merit classification under Schedule I of Chapter Heading 1518.

6.17. They contended that the impugned order has erred in holding the entry at Sl. No. 90 in Schedule I applies to vegetable oils which have been subjected to various processes, however, the resultant product remains edible despite undergoing the aforementioned processes. In this regard, it is the submission of the Appellant that the relevant entry does not mention whether the product should be edible or inedible, in order to qualify classification therein. On the other hand, in the absence of any specific mention in this regard, it can be interpreted that the intention of the entry is to cover both edible and inedible products. This is also evident from the point that the entry specifically uses the term "*otherwise chemically modified*", which means that even if the mixture of edible oils is modified chemically, still the same would fall under Schedule-I.

6.18. In the light of the detailed factual submissions and the judgements cited above, it is clear that the Pooja Oil manufactured by the Appellant is classifiable under tariff heading 1518 vide Sl. No. 90 under Schedule-I of the rate notification and consequently the pooja oil is taxable @5%.

PERSONAL HEARING: -

7. The appellant was called for a personal hearing on 03.12.2019 and was represented by their authorized representative, Shri. T.R Venkateswaran. He reiterated the submissions made in their grounds of appeal. It was emphasized that Pooja Oil is a blend of five vegetable oils to which fragrance is added; that for GST law, the entry 1518 of the Customs Tariff was split into two parts in Schedule I and Schedule II; that the entry Sl.No 90 of Schedule I pertains to vegetable oils and entry 27 of Schedule II covers all animal fats and oils; that the entry 90 of Schedule I includes even inedible vegetable oils; that if the intention was to cover only edible oils in entry Sl.No 90 of Schedule I, then the same would have been specifically mentioned in the entry.

7.1. Shri. T.R Venkateswaran also filed additional submissions to the grounds of appeal wherein they contended that the finding in the impugned order that the resultant product should remain edible despite undergoing the processes mentioned in the said entry Sl.No 90, lacks merit; that a plain reading of the entry Sl.No 90 does not envisage any such restriction /condition in the said entry.

7.2. They submitted that the Customs Tariff entry 1518 has been split into two entries (at the 4-digit level). As a result, under GST, items constituting of vegetable fats and oils, which are classifiable under entry 1518 00 39 of the Customs Tariff can be classified under two different entries (Sl.No 90 of Schedule I and Sl.No 27 of Schedule II) which has resulted in an uncertainty in respect of the correct classification applicable to the product 'pooja oil'.

7.3. They submitted that Pooja Oil is classifiable under 1518 00 39 of the Customs Tariff. Under the entry for other vegetable oils and fats, there are two classification entries viz. edible grade and other; that items containing animal fats or other mixtures of vegetable oils and animal oils that are not classified elsewhere, are covered under 1518 00 40; given that 1518 00 39 has specific entries for edible vegetable oils and fats and other, it is clear that inedible preparations of vegetable oils are classifiable under 1518 00 39.

7.4. They submitted that in terms of Rule 3 of the General Rules for the Interpretation of Import Tariff, the heading which provides the most specific description shall be preferred to headings providing a more general description. Accordingly, entry 90 of Schedule-I is more specific and restricted in application.

DISCUSSION & FINDINGS: -

8. We have gone through the records of the case and taken into consideration the submissions made by the Appellant in their grounds of appeal and at the time of the personal hearing. The issue before us is to decide the applicable rate of GST on the product "Pooja Oil"- whether it is at 5% as per entry Sl.No 90 of Schedule I to Notification No 01/2017 CT (R)/IT (R) dt 28.06.2017 or at 12% as per entry Sl.No 27 of Schedule II of the said Notifications. Before we ascertain the applicability of the schedule entries, let us have a look at the information furnished by the Appellant about the product "Pooja Oil".

9. Pooja Oil manufactured by the Appellant is a mixture of five different vegetable oils viz. rice bran oil, sesame oil (gingelly oil), coconut oil, castor oil and mahua oil. These oils are not extracted by the Appellant but are procured from identified suppliers. Each of the above oils are mixed by the Appellant in an agreed percentage in a big tank. The mixed oil kept in the tank undergoes the required lab test and inspection. On completion of the inspections and on obtaining the satisfactory test results, the oil is blended with fragrance. The fragrant oil is bottled into PET bottles, labelled and dispatched to customers. The Appellant has admitted that this fragrant oil is inedible and used solely for the purpose of lighting diyas/lamps.

10. With the above information, we shall first determine the classification of the product "Pooja Oil". As mentioned above, the Pooja Oil is a mixture of five different vegetable oils blended with a fragrance. Vegetable Oils and fats and their fractions are classified under Chapter 15 of the Customs Tariff. The Chapter 15 of the Customs Tariff also covers within its purview animal fats and oils and their fractions, animal or vegetable waxes.

11. The different tariff entries of Chapter 15 of the Customs Tariff relating to Animal and Vegetable oils and fats are summarized here below:

- Chapter Headings 15.01 to 15.06: - Covers different types of animal fats and oils and their fractions.
- Chapter Headings 15.07 to 15.15 - Covers the single (i.e., not mixed with fats or oils of another nature), fixed vegetable fats and oils mentioned in the headings, together with their fractions, whether or not refined, but not chemically modified.
- Chapter Heading 15.16 - Covers vegetable fats and oils and their fractions which have undergone a specific chemical transformation such as partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, but not further prepared.
- Chapter Heading 15.17 - This heading covers margarine and other edible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than those of heading 15.16.
- Chapter heading 15.18 - This Heading covers the following:
 - Boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified vegetable oils and fats and their fractions.
 - Inedible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included.

12. Pooja Oil which is a mixture of 5 different vegetable oils will not be covered under Chapter headings 15.01 to 15.15 as the said headings pertain to either animal fats and oils or vegetable oils and its fractions obtained from a single plant source. Further, Pooja Oil manufactured by the Appellant does not undergo any chemical modification processes such as hydrogenation, inter-esterification, re-esterification or elaidinization and therefore, the

Pooja Oil is not classifiable under Heading 15.16. The Heading 15.17 is also not applicable to Pooja Oil as it covers margarine and other edible mixtures of vegetable oils and fats and their fractions other than those which have been obtained by the processes mentioned in Heading 15.16.

13. Coming to Heading 15.18, the entries under the said Heading of the Customs Tariff are reproduced below:

Tariff Item	Description
1518	ANIMAL OR VEGETABLE FATS AND OILS AND THEIR FRACTIONS, BOILED, OXIDISED, DEHYDRATED, SULPHURISED, BLOWN, POLYMERISED BY HEAT IN VACUUM OR IN INERT GAS OR OTHERWISE CHEMICALLY MODIFIED, EXCLUDING THOSE OF HEADING 1516 ; INEDIBLE MIXTURES OR PREPARATIONS OF ANIMAL OR VEGETABLE FATS OR OILS OR OF FRACTIONS OF DIFFERENT FATS OR OILS OF THIS CHAPTER, NOT ELSEWHERE SPECIFIED OR INCLUDED
1518 00	- Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included :
	--- <i>Lin seed oil:</i>
1518 00 11	---- Edible grade
1518 00 18	---- Other
	--- <i>Castor Oil, dehydrated:</i>
1518 00 21	---- Edible grade
1518 00 29	---- Other
	--- <i>Other Vegetable oils and its fats:</i>
1518 00 31	---- Edible grade
1518 00 39	---- Other
1518 00 40	--- <i>Other</i>

14. As can be seen from the above, there are two categories of products which are covered under Heading 1518:

- One category covers vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516.

- The second category covers inedible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included:

15. The HSN Explanatory Notes with respect to the first category of products under Heading 15.18 states that:

"This part covers animal or vegetable fats and oils and their fractions which have been subjected to processes which modify their chemical structure thereby improving their viscosity, drying power (i.e., the property of absorbing oxygen when exposed to the air and forming elastic films) or modifying their other properties, provided they retain their original fundamental structure and are not more specifically covered elsewhere. E.g

(1) The Boiled or oxidised oils are obtained by heating oils, generally with the addition of small quantities of oxidising agents. These oils are used in the paint and varnish industry.

(2) Blown oils are partially oxidised and polymerised oils produced by blowing air through the oil, with application of heat. They are used for the manufacture of insulating varnishes, imitation leather and, when mixed with mineral oils, lubricating preparations (compound oils).

Linoxyn, a semi-solid rubbery product, which is a highly oxidised linseed oil used in the manufacture of linoleum is also included in this heading.

(3) Dehydrated castor oil is obtained by dehydrating castor oil in the presence of a catalyst. It is used in the preparation of paints or varnishes.

(4) Sulphurised oils are oils which have been treated with sulphur or sulphur chloride to cause polymerisation in the molecules. Oil thus processed dries more rapidly and forms a film which absorbs less water than the usual film of dried oil, and has greater mechanical strength. Sulphurised oils are used for anti-rust paints and varnishes.

(5) Oils polymerised by heat in vacuum or in inert gas are certain oils (particularly linseed oil and tung oil) which have been polymerised by simply heating, without oxidation, at 250 °C to 300 °C, either in inert carbon dioxide gas or in a vacuum. This process produces thick oils commonly called "stand-oils" used for the manufacture of varnishes forming a particularly supple and waterproof film.

Stand-oils from which the non-polymerised portion has been extracted (Teka oils) and mixtures of stand-oils are included in this heading.

(6) The other modified oils in the heading include:

(a) Maleic oils obtained by treating, e.g., soya-bean oil with limited amounts of maleic anhydride at a temperature of 200 °C or more, in conjunction with sufficient polyhydric alcohol to esterify the extra acid groups. Maleic oils so obtained have good drying properties.

(b) **Drying oils** (such as linseed oil) to which have been added in the cold small quantities of driers (e.g., lead borate, zinc naphthenate, cobalt resinate) to increase their drying properties. These oils are used in the place of boiled oils, in the preparation of varnishes or paints. They are very different from the prepared liquid driers of heading 32.11 (which are concentrated solutions of driers) and must not be confused with those products.

(c) **Epoxidised oils** obtained by treating, for example, soya-bean oil with peracetic acid pre-formed or formed in situ by reaction between hydrogen peroxide and acetic acid in the presence of a catalyst. They are used as plasticisers or stabilisers for, e.g., vinyl resins.

(d) **Brominated oils** used as an emulsion or suspension stabiliser for essential oils, for example, in the pharmaceutical industry.

16. From the above reading of the HSN Explanatory Notes, it is evident that the first part of Heading 15.18 pertains to products which are obtained by subjecting them to processes which modify their chemical structure or other properties but at the same time retain their original fundamental character. The following sub-classifications would fall under this first category, viz:

--- Lin seed oil

1518 00 11 ---- Edible grade

1518 00 19 ---- Other

--- Castor oil, dehydrated

1518 00 21 ---- Edible grade

1518 00 29 ---- Other

--- Other vegetable oil and its fats

1518 00 31 ---- Edible grade

1518 00 39 ---- Other

It is the claim of the Appellant that the Pooja Oil is classifiable under Chapter sub-heading 1518 00 39. The said sub-heading pertains to other than edible grade vegetable oils and fats (other than linseed oil and dehydrated castor oil) which have been obtained by any of the processes mentioned in the heading i.e., boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified. The Appellant has not come forth with any evidence to prove that the Pooja Oil manufactured by them by mixing five different vegetable oils and blending with fragrance, brings about a modification in the chemical structure or any other properties of the oils while retaining the original fundamental structure. Be that as it may, from the information furnished by the Appellant, we can reasonably conclude that the manufacture of Pooja Oil does not involve subjecting the five different vegetable oils to any of the processes mentioned above. The five

vegetable oils (i.e. rice bran oil, sesame oil (gingelly oil), coconut oil, castor oil and mahua oil) are merely mixed in an agreed percentage, in a large tank and later blended with fragrance to form the resultant product i.e. Pooja Oil. Therefore, in our opinion, the Pooja Oil cannot be classified under the sub-heading 1518 00 39.

17. The second category in Heading 15.18 covers inedible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included. In view of our above discussions, we hold that Pooja Oil being an inedible mixture of five different vegetable oils which is blended with a fragrance and not included anywhere else in Chapter 15, is more appropriately classifiable under the sub-heading 1518 00 40 of the Customs Tariff.

18. Having concluded that Pooja Oil is classifiable under sub-heading 1518 00 40 of the Customs Tariff as inedible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included, let us now determine the GST rate in terms of Notification No 01/2017 CT (R)/IT (R) dt 28.06.2017 as amended. The said Notification specifies two different entries for tariff heading 1518 in Schedule I and Schedule II. At the risk of repetition, we reproduce the relevant entries of the Schedule I and Schedule II:

Schedule I – 2.5%CGST/5% IGST

Sl.No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
90.	1518	<i>Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516</i>

Schedule II – 6% CGST/12% IGST

Sl.No.	Chapter / Heading / Sub-heading /Tariff item	Description of Goods
27.	1518	<i>Animal fats and animal oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included</i>

19. The GST Rate Notification has divided the heading 15.18 of the Customs Tariff into two parts. Entry Sl.No 90 of Schedule I covers only boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified vegetable oils and fats and its fractions. In other words, the entry Sl.No 90 of Schedule I only pertains to vegetable oils which have been obtained by or subjected to the above processes. This entry includes both edible and other than edible grade of vegetable oils obtained by the above-mentioned processes. To this extent, we disagree with the findings of the AAR that the entry at Sl.No 90 of Schedule I applies to vegetable oils which have been subjected to processes and the resultant product remains edible despite undergoing the aforementioned processes. Drawing support from the HSN Explanatory Notes, in our considered opinion, Pooja oil is not a boiled or oxidised or blown or dehydrated or sulphurised or polymerised or otherwise chemically modified oil. Therefore, we hold that Pooja oil is not covered under entry Sl.No 90 of Schedule I.

20. On the other hand, entry Sl.No 27 of Schedule II covers boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified animal oils and animal fats and its fractions. The said entry No 27 also includes within its purview, inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included. As already discussed earlier, the Pooja oil is an inedible mixture or preparation of different vegetable oils which is not elsewhere specified or included. Therefore, Pooja Oil is more specifically covered under entry Sl.No 27 of Schedule II where the GST rate is 6% CGST/6% KGST/ 12% IGST as the case may be.

21. Having concluded thus, we do not find it necessary to go into the arguments of the Appellant that when a product is classifiable under two or more different tariff heads, the classification which is more beneficial to the assessee is to be adopted. This situation does not arise since the product Pooja oil is held by us to be classifiable only under Chapter sub-heading 1518 00 40.


22. The Appellant has drawn our attention to the advance ruling given by Andhra Pradesh Advance Ruling Authority in the case of M/s Agarwal Industries Pvt Ltd to buttress their argument that the Pooja Oil is covered under entry Sl.No 90 of Schedule I. We have gone through the said ruling dated 08.06.2018. However, we are not inclined to consider the same for the reason that, primarily, the advance ruling orders are binding only on the applicant who has sought the advance ruling and on the concerned officer or the jurisdictional officer in respect of the applicant. Notwithstanding the above fact, we find that the said authority has given a ruling on the classification and GST rate applicable to the product "Energy-G premium Oil". The product in question has been classified under Heading 15.18 and held to be leviable to the rate of 5% as applicable to entry Sl.No 90 of Schedule I on the grounds that the product is manufactured from vegetable fats/oils and not animal fats/oils. The above ruling states that the authorities have gone through the manufacturing process of the product "Energy-G premium Oil" but the details of the manufacturing process have not been spelt out


in the said ruling. The ruling is silent on whether the product in question has been subjected to any of the processes mentioned in the entry Sl.No 90 of Schedule I which qualifies the said product to be chargeable to 5% rate under the said entry. The persuasive value of a ruling will depend on the proximity it has to the facts and circumstances of the instant case. In our view, the ruling passed by the Andhra Pradesh Authority for Advance Ruling does not have any persuasive value since it was passed without discussing the manufacturing process of the product Energy-G premium Oil. Therefore, we hold that the ruling given in the case of M/s Agarwal Industries Pvt Ltd does not have any persuasive weightage.

23. In view of the above we pass the following order

ORDER

We uphold the order NO.KAR ADRG 49/2019 dated 18/09/2019 passed by the Advance Ruling Authority and appeal filed by the appellant M/s. S.K. Aagrotechh, stands dismissed on all counts.


(D.P. NAGENDRA KUMAR)
Member
Karnataka Appellate Authority


(M.S. SRIKAR)
Member
Karnataka Appellate Authority

To,

The Appellant

Copy to:

✓ The Member (Central), Advance Ruling Authority, Karnataka.

The Member (State), Advance Ruling Authority, Karnataka.

The Commissioner of Central Tax, West GST Commissioner at

The Asst. Commissioner, LGSTO-155, Ramanagar

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