

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY,
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. ManasaGangotri Kata, IRS Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai.
2. Thiru. KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A.,
Joint Commissioner (ST) / Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6.

ORDER No.15/AAR/2019 DATED 15 .04.2019

GSTIN Number, if any / User id		33AAACV2596F1ZD
Legal Name of Applicant		M/s. V. V.Enterprises Private Limited
Registered Address/Address provided while obtaining user id		Ground Floor, 45, Raju Nagar, 2 nd Street, Mettukuppam, OkkiyamThoraipakkam, Kanchipuram District Tamil Nadu. Pincode: 600 097.
Details of Application		GST ARA-01 Application Sl. No.37 dated : 19.07.2018
Concerned Officer		Centre : Chennai South Division-Thuraipakkam State -The Assistant Commissioner (ST), Sholinganallur Assessment Circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Manufacturer
B	Description (in Brief)	The Applicant is a manufacturer of Automatic Electric Filter Coffee Maker and Manual, Electrically Warmed Filter Coffee Maker and also manufacturer of various products namely, Beverages Vending Machines and Components, Magnetic Float Switches etc., They have sought Advance Ruling in respect of classification of two

		<p>products namely Automatic Electric Filter Coffee Maker and Manual, Electrically Warmed Filter Coffee Maker for commercial use in Hotels and Restaurants and the applicable tax rates</p>
<p>Issue/s on which advance ruling required</p>		<p>Classification of Automatic Electric Filter Coffee Maker/Manual, Electrically Warmed Filter Coffee Maker as to whether falls under the Chapter Heading 8419 and more specifically 8419 8120 of Notification No. 41/17 CTR dated 14.11.2017 and the GST Tariff rate of tax at 18% (CGST 9% and SGST 9%) with corresponding Sl.No. 320 of G.O. Ms. No. 157 of 2017 issued under the provisions of TNGST Act 2017 or whether the products fall under the Chapter Heading 8516 of the GST Tariff rate of tax at 28% (CGST 14% and SGST 14%).</p>
<p>Question(s) on which advance ruling is required</p>		<p>i. Whether in the facts and circumstances of the case and in view of the fact that Automatic Electric Filter Coffee Maker fall under Chapter Heading No. 8419 of the GST tariff and therefore SI. No. 320 of Schedule III to notification No. 41/17 CTR dated 14.11.2017 and corresponding SI.NO. 320 of Schedule III to G.O. M.s.No. 157 dated 14.11.2017 to be taxed at the rate of 18%.</p> <p>ii. Whether in the facts and circumstances of the case and in view of the fact that Automatic Electric Filter Coffee Maker is a machinery not meant for domestic use and will therefore be classified under Chapter Heading No. 8419 of GST tariff to be charged at the rate of 18%.</p> <p>iii. Whether in the facts and circumstances of</p>

	<p>the case and in view of the fact that, Manual/Traditional Filter Coffee Maker, being not meant for domestic use and falling under Chapter Heading No. 8419 of GST tariff SI. No. 320 of Schedule III to Notification No. 41/17 CTR dated 14.11.2017 and corresponding SI. NO. 320 of Schedule III to G.O. Ms. No. 157 of 2017 is to be taxed at the rate of 18%.</p>
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Note : Any appeal against the advance ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. V. V. Enterprises Private Limited 45, Raju Nagar, 2nd Street, Mettukuppam, OkkiyamThoraipakkam, Kanchipuram, Tamil Nadu 600 097, (hereinafter referred to as 'Applicant') are registered under GST Act vide GSTIN 33AAACV2596F1ZD. The Applicant manufactures Electric, Automatic, Filter Coffee Maker and Manual, Electrically Warmed Filter Coffee Maker and is also involved in the activity of manufacture of various products namely Beverages, Vending Machines and Components, Magnetic Float Switches etc. The Applicant has sought Advance Ruling in respect of their two manufacturing products namely, 'Automatic Electric Filter Coffee Maker' and 'Manual, Electrically Warmed Filter Coffee Maker' as below:

"1. Whether in the facts and circumstances of the case and in view of the fact that Automatic Electric Filter Coffee Maker fell under Chapter Heading No. 8419 of the GST Tariff and therefore SI. No. 320 of Schedule III to Notification No. 41/17 CTR dated 14.11.2017 and corresponding SI.No. 320 of Schedule III to G.O. M.s.No. 157 dated 14.11.2017 to be taxed at the rate of 18% ?

2. *Whether in the facts and circumstances of the case and in view of the fact that Automatic Electric Filter Coffee Maker is machinery not meant for domestic use and will therefore be classified under Chapter Heading No. 8419 of GST tariff to be charged at the rate of 18%?*

3. *Whether in the facts and circumstances of the case and in view of the fact that, Manual/Traditional Filter Coffee Maker, being not meant for domestic used and falling under Chapter Heading No. 8419 of GST tariff SI. No. 320 of Schedule III to Notification No. 41/17 CTR dated 14.11.2017 and corresponding SI. NO. 320 of Schedule III to G.O. Ms. No. 157 of 2017 is to be taxed at the rate of 18%?.*

The Applicant has submitted the copy of application in Form GST ARA – 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under Sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2.1 The Applicant has stated that Automatic Electric Filter Coffee Maker is Machinery. The Machine contains a water tank and the plain water is poured into the water tank. When the Machine is switched on, the immersion heater, which is located inside the boiler of the Machine heats the plain water which is poured into the water tank. When the heated water reaches the desired temperature of 90° C, a solenoid valve outside the tank will open. Then the hot water will fall on the coffee powder which is inside the filter of the machine. Once the coffee is cooked, the same drips down as a hot decoction into a collecting vessel which is part of the Machine. The temperature in the collecting vessel is maintained through a warmer heater. The activity of heating and switching off of the heating operation is controlled by a thermostat which in turn is controlled by a Printed Circuit Board (PCB). This indicates that the activity of heating of the water, the activity of transfer of heated water on the coffee powder and the activity of preservation of the heat of the cooked coffee is all controlled by a thermostat which in turn is controlled by a PCB. The product is not for domestic use. At a given time, as much as 150 to 500 grams of coffee powder can be fed into the Machine. This can result into as many as 100 cups of coffee in 15 minutes time and on the other hand, a domestic coffee maker will not be able to handle more than 25 grams of coffee powder at a time resulting in not more than 4 to 5 cups of coffee. The Machine can be used repeatedly for further cycle during the day. The Machine is

designed for commercial use in Hotels and Restaurants. The cost of this Machine is approximately between Rs. 8,000/- to Rs. 20,000/- depending upon the size of the Machine. The size will determine the quantum of coffee powder which can be handled at a time by the machine They are selling this product to Hotels and Restaurants such as Hot Chips Restaurants, Hotel Surguru, Hotel AryaNivas, AdyarAnandaBhavan, etc. In view of the above, the product in question, Automatic Electric Filter Coffee Maker, will be a Machine which falls squarely under Chapter 8419 of the GST tariff contemplated by Schedule III of Notification No. 41/17-CTR dated 14.11.2017 read with schedule III of G.O. Ms.No. 157 of 2017 dated 14.11.2017 to be taxed at an aggregated GST rate of 18%.

2.2 Regarding Manual /traditional filter coffee maker Machine, the same is meant only for commercial use. The Applicant stated that this product is designed to handle 250 to 500 grams of coffee powder in one cycle. In this instance, the hot water itself is poured into the Machine. There is a filter inside the Machine, through which the hot water passes and drips into coffee powder resulting in the cooking of Coffee powder and extraction of decoction. The decoction is kept warm in a warmer heater which is controlled by a thermostat. Unlike the first Machine, namely, Automatic Electric Filter Coffee Maker, this Machine is not controlled by the Printed Circuit Board (PCB). This Machine is operated electrically and electricity is needed for the purpose of maintaining temperature through a thermostat which is inside the heater which is part of the Machine.

2.3 The Applicant has interpreted that the products falls under Chapter 8419 and covered under Sl. No. 320 of Schedule III to Notification No.41/17 CTR dated 14.11.2017 and corresponding Sl. No. 320 of Schedule III to G.O. Ms. No. 157 of 2017. This chapter will apply in respect of Machinery, whether or not electrically heated for the treatment of materials by a process involving a change of temperature such as Heating, Cooking, Roasting, Distilling, Rectifying, Sterilizing, Pasteurizing, Steaming, Drying, Evaporating, Condensing or Cooling other than Machinery or plant of a kind not used for domestic purposes. In the instant case the Automatic Electric Filter Coffee Maker is a Machine, which is using a heater and heating operation to cook a substance. It is also not meant for domestic use but for commercial use. In these circumstances, the Machine will fall under Chapter 8419 and will therefore get taxed at 18% (CGST 9% and SGST 9%) under the GST. The Manual/Traditional Filter Coffee Maker also is used to cook and make decoction. It also uses a heating operation in the warmer heater through a

thermostat. The machine is not meant for domestic use and items meant for domestic use are classified separately under the Chapter Heading 8516 of the GST tariff to be taxed at 28%. There is a clear demarcation in the scheme of GST notifications; Machines meant for domestic use are taxed at higher rate. Machines meant for non-domestic use are taxed at lesser rate.

3.1 The Applicant appeared for the personal hearing held on 19.11.2018, before the Authority. They submitted brochures, copies of Invoices, details of capacity of each product. The Applicant stated that both goods are electrical machinery and supported by the Supreme Court judicial cases laying down the definition of Machine. They stated that they are used only in industries/hotels and not for domestic use. They would fall under definition of 'Plant' as laid down in Supreme Court Judgment submitted by them. They stated that though one uses Printed Circuit Board (PCB) other electricity, they have Parts which is essential to Machinery. Therefore, the Applicant stated that both the products should be classifiable under Chapter Head 8419 and not under Chapter Heading 8516.

3.2 The applicant was offered an opportunity of final hearing and heard on 12.03.2019. The Applicant appeared and stated that they Manufacture Coffee Maker for commercial use either Fully-Automatic or/and Semi-Automatic. They have a minimum capacity of 250 gram (75 cup), 500 gram (150 cups) only, whereas domestic has 4-5 cups capacity. The Chapter Heading 8516 is for Coffee Maker/Electro Thermic Appliances of domestic use. Whereas, Chapter Heading 8419 is the correct classification as 'Electrical Machinery' involving change of temperature. They were earlier classifying these products under the Chapter Heading 8516, but the Central Excise Duty was the same for all the above products. They submitted various case laws to state that principle of estoppel cannot stand in the way of law. They also stated that up to 13.11.2017, both the Chapter Heading 8419 & 8516 were attracting 28%, later tax rate of Chapter Heading 8419 became 18%. From 27.07.2018, the tax rate for Chapter Heading 8516 also became 18%. They submitted invoices of sale during pre-GST & Post - GST period.

4. The jurisdictional authority, Chennai (south) Commissionerate, has furnished the following comments:

- The issue in hand is whether the products viz. 'Automatic, Electric, filter Coffee maker' and 'Manual/traditional filter coffee maker' are classifiable

under 85167100 attracting 28%GST or under 84198120 attracting 18% GST. The description of the two chapter headings are as follows:

Chapter Heading	Description	Effective rate of GST
8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors other than those of heading 8545	CGST-14% + SGST-14%
85167100	Coffee or tea makers	

Or

8419	Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514). For the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electric (other than solar water heater and system)	CGST-9% + SGST-9%
841981-	For making hot drinks or for cooking or heating food	
84198120-	Other kitchen machines	

- Under the GST regime, the HSN (Harmonised System of Nomenclature) code shall be used for classifying the goods. As per Rule 3(a) of the Interpretation of the Harmonised system of Nomenclature' (HSN), "The Heading which provides the most specific description shall be preferred to Headings providing a more general description.
- On perusal of the above tables, it is noticed that the impugned product "Coffee-Maker" is squarely covered under 85167100. The other classification sought by the Applicant Viz. "8419 8120" corresponds to "Other Kitchen Machines", which is a more general description. Hence, in line with the General Rules of the Interpretation of the Harmonised System

of Nomenclature, the said product is classifiable under Chapter heading 85167100 only

- the taxpayer has claimed that the said products viz. 'Automatic Electric Filter Coffee Maker' and 'Manual/traditional Filter Coffee Maker' is a Machinery. But, the description of the goods mentioned in the copy of bills as 'Filter Cofffee Maker' by the taxpayer himself, which squarely fits in Chapter Heading 85167100. The functions elucidated by the taxpayer are only the working of 'Coffee-Maker'. Hence, the said goods are only 'Coffee-Makers'.
- Moreover, the end use of the said products i.e. Coffee Maker is for domestic purpose. The Applicant viz., M/s. V.V. Enterprises has been initially classifying the impugned product only under the chapter heading 8516 71 00. It is evident that in as much as the rate of GST Chapter Heading 8419 81 20 has been reduced to 18% from 28% with effect from 14.11.2017, whereas the GST rate for 85167100 remained at 28% throughout, the taxpayer is now claiming classification under 8419 81 20. Hence, the said product merits classification only under 8516 71 00
- The contention of the Applicant that the cost of the Machine ranges from Rs. 8,000/- to Rs. 20,000/- is not sustainable, since there are many domestic coffee-makers in market available at this price yielding coffee from 1 cup onwards.
- Sl.No. 320 of Notification No. 41/2017 dated 14.11.2017 read with Schedule III of G.O. No. 157 of 2017 dated 14.11.2017 is applicable only for Machinery or Plants of chapter 8419, which are used for purposes other than domestic use. In this case, the end use of the said goods i.e. coffee maker can be used for domestic purpose. Hence, the relaxation under the said Notification is not applicable to the Applicant.

In view of the above facts, the authority concluded that the product items manufactured by the Applicant are classifiable under the heading "8516 71 00" attracting CGST-14%+SGST-14% only.

5. Further, the concerned authority on behalf of the State, The Assistant commissioner (ST), Sholinganallur Assessment Circle has furnished his comments on the classification of the products as under:

- It is the contention of the Applicant that the goods would fall under HSN entry 8419 8120, as it is Machinery, intended to make coffee decoction on a large scale

as against the household coffee maker which is covered by entry 8516. Though, the principles as well as the components of the two goods are identical, they are distinguishable only on scale of production of the coffee decoction.

- It is pertinent to note that Chapter 84 covers Machinery, Plant or equipment for the treatment of materials by a process involving a change in temperature such as Heating, Cooking, Roasting etc, other than Plant or Machinery of a kind used for domestic purpose. The term domestic purpose is not defined in any of the Sections or Chapters. The process of preparation of coffee decoction through a drip coffee maker, where hot water is dripped or poured or sprayed over ground coffee contained in a filter basket (as is of the nature described by the applicant in his application) does not involve Heating, Cooking, Roasting, Distilling, Rectifying, Sterilizing, Pasteurizing, Steaming, Drying, Evaporating, Vaporizing, Condensing or Cooling of the ground coffee. It involves brewing of coffee decoction by pouring or dripping water brought to a boil in the appliance. There is no treatment of coffee powder but a processing of the coffee powder by using hot water. The coffee powder is used up in the process and the filtrate (a colloidal solution) does not have the same physical or chemical nature as the raw material (dry ground coffee powder) thus, it is a process amounting to manufacture of coffee decoction using the electro-thermic device and such device would not be covered by Chapter 84 for the reasons given below.
- Since the goods dealt with by the applicant is an electro-thermic device, it is covered by Chapter 85 only. Chapter 84 does not cover electrical equipment and there is no entry for electro-thermic devices anywhere under that chapter. All electro-thermic devices are covered by Chapter 85 only. More specifically, there is an entry 8516 7100 which covers "coffee or tea makers".
- No reasons are adduced by the applicant as to why the goods dealt with by him would not fall within this specific entry except to contend that the scale of operation of the appliance manufactured by him is greater than that of the coffee makers used in households. The relevant chapter entries do not make any distinction of the nature suggested by the applicant. Though the description of goods under subheading 8516 specifically mentioned 'other electro-thermic appliances of a kind used for domestic purposes' it is not an entry relating to goods used specifically for domestic purposes. The term 'kind' in the entry should be taken note of. It indicates that the nature of the goods is such that it has a domestic utility. It is meant to cover goods that have a domestic usage but are not covered by other descriptions in the chapter, heading, subheading or

tariff item. It does not preclude the possibility of such goods used commercially. The size or capacity of the goods is irrelevant. The entries are to be read in the manner intended. There cannot be an attempt at interpretation when the intent is clear”.

6. All documents submitted by the applicant were examined. It is seen from the brochure the products are being called “Gemini Modern Auto Coffee Filter” and “Gemini Modern Traditional Coffee Filter” . In the case of “Gemini Modern Auto Coffee Filter”, the product is housed in a stainless steel body and is automatically controlled by electronic circuitry with flow controlled by magnetic relay switch and solenoid valves. The machine switches off automatically after the operation is complete and the decoction is kept warm by thermostatically controlled warmer. There are three models with varying capacity of coffee powder 125 gm (“Gemini 2000”), 250 gm (“Gemini Classic”) and 500 gm (“Gemini Majestic”) giving 35, 75 and 150 cups per 1 feed. In the case of “Gemini Modern Traditional Coffee Filter”, the body is also stainless steel and decoction is kept warm by warm thermostatically controlled warmer. There are two models with varying capacity of coffee powder 250 gm (“ Small”) and 500 gm (“Big”) giving 75 and 150 cups in 1 feed. The difference between these two is that hot water is directly added to the later while water is internally heated by the former in a controlled manner using circuitry. Both of them use power supply , the former for operating the electric circuitry and thermostat and the later only for the thermostat. The invoices supplied by the applicant indicate that they are calling them “ Filter Coffee Maker” and the buyers are hotels, restaurants, and corporates.

7.1 We have carefully examined the statement of facts, supporting documents filed by the Applicant such as Brochures, copies of Invoices and the case laws and also comments furnished by the Additional Commissioner, Chennai (South) Commissionerate, Office of the commissioner of GST & Central Excise, Government of India and the remarks submitted by the Assistant commissioner(ST), Sholinganallur Assessment Circle, Commercial Taxes Department, Tamil Nadu and heard the arguments made by the Applicant at the time of hearing on 19.11.2018 & 12.03.2019. The issue to be decided is

1. whether the Automatic Electric Filter Coffee Maker is a machinery not meant for domestic use and will therefore be classified under CTH 8419 and charged to GST at the rate of 18% effective from 14.11.2017 as per Notification No. 41/17

CTR dated 14.11.2017 with corresponding SI.No.220 of G.O. Ms. No.157 dated 14.11.2017, issued under provisions of TNGST Act

2. Whether the Manual/Traditional Filter Coffee Maker, being not meant for domestic use and falling under CTH 8419 and charged to GST at the rate of 18% effective from 14.11.2017 as per Notification No. 41/17 CTR dated 14.11.2017 with corresponding SI.No.220 of G.O. Ms. No.157 dated 14.11.2017, issued under provisions of TNGST Act

7.2 In terms of explanation (iii) and (iv) contained in the notification no.1/2017-C.T.(Rate), dated 28.06.2017, "Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading and Chapter as specified in 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. Accordingly, to arrive at the classification, the respective chapter headings, Chapter Note, Section Notes are to be seen.

7.3 The relevant explanatory notes of Chapter 8419 and Chapter 8516 and that of the General notes of Section XVI are given under for ease of reference:

❖ **Section Note 5 of Section XVI :**

For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85.

❖ **HSN Explanatory Notes to chapter 84 states :**

General Note (A)

Subject to the provisions of the General Explanatory Note to Section XVI, this Chapter covers all machinery and mechanical appliances, and parts thereof, not more specifically covered by **Chapter 85**, and not being :

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In general, Chapter 84 covers machinery and mechanical apparatus and Chapter 85 electrical goods. However, certain machines are specified in headings of Chapter 85 (e.g., electro-mechanical domestic appliances) while Chapter 84 on the other hand covers certain non-mechanical apparatus (e.g., steam generating boilers and their auxiliary apparatus, and filtering apparatus).

It should also be noted that machinery and apparatus of a kind covered by Chapter 84 remain in this Chapter even if electric, for example :

- (1) Machinery powered by electric motor.
- (2) Electrically heated machinery, for example, electric central heating boilers of heading 84.03, machinery of heading 84.19 and other machinery (e.g., calenders, textile washing or bleaching machines or presses) incorporating electrical heating elements.

General Note (B)

(B) GENERAL ARRANGEMENT OF THE CHAPTER

- (1) Heading 84.01 covers nuclear reactors, fuel elements (cartridges), non-irradiated, for nuclear reactors and machinery and apparatus for isotopic separation.
- (2) Headings 84.02 to 84.24 cover the other machines and apparatus which are classified mainly by reference to their function, and regardless of the field of industry in which they are used.

❖ **Chapter Heading 8419 states:**

8419	MACHINERY, PLANT OR LABORATORY EQUIPMENT, WHETHER OR NOT ELECTRICALLY HEATED (EXCLUDING FURNACES, OVENS AND OTHER EQUIPMENT OF HEADING 8514), FOR THE TREATMENT OF MATERIALS BY A PROCESS INVOLVING A CHANGE OF TEMPERATURE SUCH AS HEATING, COOKING, ROASTING, DISTILLING, RECTIFYING, STERILISING, PASTEURISING, STEAMING, DRYING, EVAPORATING, VAPORISING, CONDENSING OR COOLING, OTHER THAN MACHINERY OR PLANT OF A KIND USED FOR DOMESTIC PURPOSES; INSTANTANEOUS OR STORAGE WATER HEATERS, NON-ELECTRIC
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| 8419 81 | - <i>Other machinery, plant and equipment:</i>
-- <i>For making hot drinks or for cooking or heating food :</i> |
| 8419 81 10 | --- Friers |
| 8419 81 20 | --- Other kitchen machines |
| 8419 81 90 | --- Other |

❖ **HSN Explanatory Notes on Chapter Heading 8419 states :**

It should be noted that this heading **does not include** :

- (r) Electric soil heating apparatus, electric space heating apparatus, and electro-thermic domestic appliances of heading 85.16.

With these exceptions, the heading covers machinery and plant designed to submit materials (solid, liquid or gaseous) to a heating or cooling process in order to cause a simple change of temperature, or to cause a transformation of the materials resulting principally from the temperature change (e.g., heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling processes). But the heading **excludes** machinery and plant in which the heating or cooling, even if essential, is merely a secondary function designed to facilitate the main mechanical function of the machine or plant, e.g., machines for coating biscuits, etc., with chocolate, and conches (**heading 84.38**), washing machines (**heading 84.50 or 84.51**), machines for spreading and tamping bituminous road-surfacing materials (**heading 84.79**).

The machinery and plant classified in this heading may or may not incorporate mechanical equipment.

They may be heated by any system (coal, oil, gas, steam, electricity, etc.), **except** in the case of instantaneous water heaters and storage water heaters which are classified in **heading 85.16** when heated electrically.

The heading covers **only** non-domestic equipment, **except** for the instantaneous or storage water heaters referred to later in this Explanatory Note.

The heading includes a very wide range of machinery and plant of the types described below.

(I) HEATING OR COOLING PLANT AND MACHINERY

This group covers plant of general use in many industries for the simple treatment of materials by heating, boiling, cooking, concentration, evaporation, vaporisation, cooling, etc. They include :

- (17) Specialised heating or cooking apparatus which are not normally used in the household (e.g., counter-type coffee percolators, tea or milk urns, steam kettles, etc., used in restaurants, canteens, etc.; steam-heated cookers, hot-plates, warming cupboards, drying cabinets, etc.; deep-fat friers).

From the above, it is seen that 'Machine' means any machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85. HSN Explanatory Notes to Chapter 84 states that Chapter 84 covers all machinery and mechanical appliances unless they are more specifically covered in Chapter 85. Though in general machines and machinery are covered in Chapter 84 and electrical goods under Chapter 85, General Notes to Chapter 84 specifically states that machinery and apparatus of Chapter 84 , specifically 419 remain covered in Chapter 84 even if electric. In the instant case, both "Gemini Modern Auto Coffee Filter" and "Gemini Modern Traditional Coffee Filter" are machinery which are electric as they use electricity , the former for operating the internal electric circuitry for controlled heating and flow of water and thermostat for keeping the prepared decoction warm and the later only for the thermostat. As per Explanatory Notes to heading 8419, the heading covers machinery and plant

designed to cause a transformation of materials resulting principally from a temperature change eg. heating, cooking etc. In the instant case, the coffee powder fed into the applicant's machines is subjected to heating by means of hot water, which is internally heated in case of "Gemini Modern Auto Coffee Filter" or externally fed in case of "Gemini Modern Traditional Coffee Filter". The process transforms the coffee powder into coffee decoction which the machine also keeps warm at a certain temperature by means of a thermostat. The Explanatory Notes also states that machines of heading 8419 are classified mainly by reference to their functions. Hence, the machines of the applicant are to be classified in terms of the function they perform which is preparation of filter coffee decoction. The heading 8419 covers "machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes". This is also stated in the explanatory notes that the heading only covers non domestic equipment. In the instant case, both the apparatus are not meant for domestic purpose but for commercial use as can be seen by the capacity of the coffee powder fed in and number of cups of decoction generated. The explanatory notes clearly states that specialized heating or cooking apparatus which are not normally used in household are covered in chapter 8419 and that it does not cover electro-thermic domestic appliances of heading 8516.

7.4 **HSN Explanatory notes to Chapter 85 states :**

GENERAL

(A) SCOPE AND STRUCTURE OF THE CHAPTER

This Chapter covers all electrical machinery and equipment, **other than :**

- (a) Machinery and apparatus of a kind covered by **Chapter 84**, which remains classified there even if electric (see the General Explanatory Note to that Chapter).

In general, however, electrically heated apparatus falls in other Chapters (mainly in **Chapter 84**), for example: steam generating boilers and super-heated water boilers (**heading 84.02**), air conditioning machines (**heading 84.15**), roasting, distilling or other apparatus of **heading 84.19**, calendering or other rolling machines and cylinders therefor (**heading 84.20**), poultry incubators and brooders (**heading 84.36**), general purpose branding machines for wood, cork, leather, etc. (**heading 84.79**), medical apparatus (**heading 90.18**).

❖ Chapter Heading 8516:

8516 **ELECTRIC INSTANTANEOUS OR STORAGE WATER HEATERS AND IMMERSION HEATERS; ELECTRIC SPACE HEATING APPARATUS AND SOIL HEATING APPARATUS; ELECTRO-THERMIC HAIR-DRESSING APPARATUS (FOR EXAMPLE, HAIR DRYERS, HAIR CURLERS, CURLING TONG HEATERS) AND HAND DRYERS; ELECTRIC SMOOTHING IRONS; OTHER ELECTRO-THERMIC APPLIANCES OF A KIND USED FOR DOMESTIC PURPOSES; ELECTRIC HEATING RESISTORS, OTHER THAN THOSE OF HEADING 8545**

8516 71 00 - *Other electro-thermic appliances:*
 -- Coffee or tea makers

❖ **HSN Explanatory notes on Chapter 8516 states as :**

(E) OTHER ELECTRO-THERMIC APPLIANCES OF A KIND USED FOR DOMESTIC PURPOSES

This group includes all electro-thermic machines and appliances **provided** they are **normally used in the household**. Certain of these have been referred to in previous parts of this Explanatory Note (e.g., electric fires, geysers, hair dryers, smoothing irons, etc.). Others include :

- (1) Microwave ovens.
- (2) Other ovens and cookers, cooking plates, boiling rings, grillers and roasters (e.g., convection type, resistance type, infra-red, high frequency induction and combined gas-electric appliances).
- (3) Coffee or tea makers (including percolators).

This group **excludes** :

- (c) Counter-type coffee percolators, tea or milk urns, sauté pans and chip pans used, for example, in chip shops and other thermo-electric appliances which are not normally used in the household (**heading 84.19**, etc.).

From the above, it is clear that chapter 85 covers all machines and machinery other than those classified under chapter 84 which remain classified there even if they are electric. Chapter 8516 covers “Other electro-thermic appliances of a kind used for domestic purposes” under which coffee makers are classified under 85167100. This means that coffee makers used for domestic purposes are classified under chapter 8516. This is also stated in the explanatory notes that only electro-thermic machines, including coffee makers, normally used in the household are covered under this heading. The notes also specifically excludes thermo-electric appliances which are not normally used in the household which are to be classified under heading 8419. Therefore, “Gemini Modern Auto Coffee Filter” and “Gemini Modern Traditional Coffee Filter” are specifically excluded from heading 8516 and should be classified under chapter 8419 and specifically under 84198190.

8. Having held that the products are classifiable under CTH 8419, the next issue to be seen is that whether Sl.No. 320 of Schedule III to Notification no. 41/17 C.T.(Rate) dated 14.11.2017 is applicable and the products are liable to tax at the rate of 18% GST.

Prior to the amendment vide Notification no. 41/17 C.T.(Rate) dated 14.11.2017, CTH 8419 is mention only in Sl no 320 of Schedule III and Sl. No 121 of Schedule IV. However, only specific machinery were covered under these Sl.Nos which do not include Coffee makers for non domestic use. Therefore, for the period 01.07.2017 to 14.11.2017, the applicable rate on “Gemini Modern Auto Coffee Filter” and “Gemini Modern Traditional Coffee Filter” is CGST 9% as per Sl.No. 453 of Schedule -III of Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 and SGST 9% as per Sl.No. 453 of Schedule -III of Notification No.II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017

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

The entry at Sl.No. 320 of Schedule III of Notification no. 01/2017-C.T. (Rate) amended by Notification no. 41/2017 dated 14.11.2017 with effect from 15.11.2017 is as follows:

Sl.No.	Chapter/Heading/Sub-Heading/Tariff item	Description of Goods
320	8419	Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electric[other than Solar water heater and system]

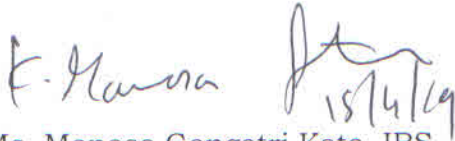
From the above description, it is evident that 'Machinery, for the treatment of materials by a process involving a change of temperature such as cooking, other than machinery of a kind used for domestic purpose', falling under the tariff item 8419 is covered under the said entry. In the case at hand as discussed in para 7.4 above, the products are machines covered under 8419, not of a kind used for domestic purposes, therefore are squarely covered under the said entry. Hence, the products under consideration are taxable to CGST 9% and SGST 9% as per Sl. No. 320 of Schedule III to Notification no. 01/2017-C.t.(Rate) dated 28.06.2017 as amended by Notification No. 41/2017 dated 14.11.2017 and Sl.No. 320 of Schedule III to Notification No.II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 effective from 15.11.2017.

9. In view of the above, we rule as under:

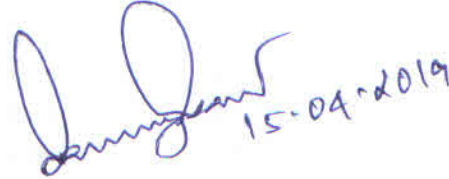
RULING

1. "Gemini Modern Auto Coffee Filter" and "Gemini Modern Traditional Coffee Filter" supplied by the applicants are classifiable under Chapter Heading 84198190.
2. For the period 01.07.2017 to 14.11.2017, the applicable rate on "Gemini Modern Auto Coffee Filter" and "Gemini Modern Traditional Coffee Filter"

is CGST 9% as per Sl.No. 453 of Schedule -III of Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 and SGST 9% as per Sl.No. 453 of Schedule -III of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017. The products are taxable to CGST 9% and SGST 9% as per Sl. No. 320 of Schedule III to Notification no. 01/2017-C.t.(Rate) dated 28.06.2017 as amended by Notification No. 41/2017 dated 14.11.2017 and Sl.No. 320 of Schedule III to Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 effective from 15.11.2017.


15/4/19

Ms. Manasa Gangotri Kata, IRS
Member, CGST


15-04-2019

Shri. Kurinji Selvaan V.S., M.Sc., (Agri), M.B.A.,
Member, TNGST

To

M/s. V V Enterprises Private Limited.
Ground Floor, 45, Raju Nagar, 2nd Street,
Mettukuppam,
Okkiyam, Thoraipakkam,
Kanchipuram District
Tamil Nadu 600 097.



// By Speed Post with Ack. Due //

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & C.Ex.,
Chennai South Commissionerate
4. The Assistant commissioner (ST),
Sholinganallur Assessment Circle, Plot No. 141, 2nd Floor,
Yazhini Complex, 1st Main Road, Burma Colony,
Perungudi, Chennai - 600 096.
5. Master File/ Spare.