

**BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING IN GOODS
AND SERVICE TAX, IN THE STATE OF HARYANA, PANCHKULA**

Appeal Case No. : HAAAR/2020-21/04

Dated: 30.09.2020

GSTIN of the Applicant	06AABCI5252Q1Z8
Name	M/s Imperial Life Sciences Private Limited
Address / Registered Address	Plot No. 463, Sector 37, Pace City - 2, Gurugram, Haryana
Present for the Applicant	CS Monika Goyal

**Order under Section 101 of Central Goods and Service Tax Act, 2017 /
Haryana Goods and Service Tax Act, 2017**

The present appeal has been filed under Section 100 (1) of Central Goods and Service Tax Act, 2017 / Haryana Goods and Service Tax Act, 2017 (hereinafter referred to as CGST Act / HGST Act, respectively) by M/s Imperial Life Sciences Pvt. Ltd against the Advance Ruling No. HAR/HAAR/R/2019-20/15 issued vide Memo No. 1055/AAR dated 28.08.2020.

A copy of order of the Advance Ruling Authority issued on dated 28.08.2020 was received by the appellant on 31.08.2020 and the appeal has been filed on 30.09.2020 which is within time in terms of Section 100(2) of the CGST Act 2017.

I. BRIEF FACTS OF THE CASE:

M/s Imperial Life Science Pvt. Ltd. is engaged in the import and supply of laboratory reagents (tariff heading 3822) to the Government Research Institutions. Till the end of June, 2019, IGST was being levied by Customs Appraising Department on laboratory reagents @12% in terms of S.No.80 of Schedule II to the CGST Notification 01/2007-CT dated 28.06.2017. However later Customs observed that laboratory reagents of Customs tariff heading 3822 cannot be so taxed and IGST would be charged under the residuary S.No.453 viz. 'Goods which are not specified in Schedule I, II, IV, V or VI', of Schedule III of the Notification.

II. QUESTION FOR ADVANCE RULING:

The question raised for Advance Ruling by the Appellant was, -

"Whether 'LABORATORY REAGENT' is classifiable under Tariff Heading 38220090 at S. No. 80 of the Schedule II, OR as 'Goods which are not specified in Schedule I, II, IV, V or VI' at Sl. No. 453 of Schedule III under

CGST Notification No. 1/2017-Central Tax (R) dated 28th June 2017 (As amended and Notification No. 35/2017-State Tax 2 dated 30.06.2017 (as amended))?"

Advance Ruling:

The AAR ruled, -

"The Laboratory Reagents are the goods which are not specified in Schedule I, II, IV, V or VI of the Notification 01/2017-Central Tax (Rate) and Integrated Tax (Rate) dated 28.06.2017 and as such it is recovered under Serial No.453 453 of Schedule III of Notification 01/2017-Central Tax (Rate) and Integrated Tax (Rate) dated 28.06.2017."

III. GROUNDS OF APPEAL:

The Appellant have submitted the following as the Grounds of Appeal:

- a. That, the Ruling granted is incorrect both on law as well as facts;
- b. That, Chapter 38 of the Customs Tariff Act, 1975 (hereinafter referred to as 'CTA') provides for classification of "*Miscellaneous chemical products*" and Chapter Heading 3822 covers "*Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials*".
- c. Sub-heading 382200 covers "*Diagnostic or laboratory reagents*" as under:-

Tariff Item	Description of goods	Unit
3822	Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials	
382200	- Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials --for medical diagnosis --Pregnancy confirmation reagents	
38220011	--Reagents for diagnosing AIDS	
38220012	--Other	

38220019	--Other	
38220000		

d. That, Hon'ble Karnataka Appellate Authority for Advance Ruling has vide Order NO: KAR/AAAR-08/2019-20 dated 14.01.2020 in the matter of M/s Chromachemie Laboratory Private Limited has held as under:

"17. We find that the reagents referred to in the Heading 3822 of the Customs Tariff are both diagnostic and laboratory reagents. In the GST rate Notification No 01/2017, the entry Sl. No 80 of Schedule II describes the goods under Chapter Heading 3822 as, "All diagnostic kits and reagents". This implies that all reagents falling under Chapter Heading 3822 are covered under the said entry Sl. No 80. As mentioned earlier, the Heading 3822 of the Customs Tariff applies to both diagnostic and laboratory reagents. Therefore, the correct way to read the entry Sl. No 80 of Schedule II would be "all diagnostic kits and all reagents". To limit the term "reagents" in the rate Notification as being applicable only to diagnostic reagents is an incorrect interpretation. When the Heading 3822 of the Customs Tariff clearly has within its fold reagents which are both diagnostic as well as laboratory reagents on a backing and prepared diagnostic and laboratory reagents with or without a backing, the use of the single word "reagents" in the entry Sl. No 80 of Schedule II should be understood as a generic word encompassing all the reagents mentioned under Heading 3822 of the Customs Tariff."

e. That, Harmonized Commodity Description and Coding System Explanatory Notes (ENs), constitutes the official interpretation of the Harmonized System at the international level and provide a commentary on the scope of each heading and are generally indicative of the proper interpretation of the headings. The Harmonised System of Nomenclature (HSN) Explanatory Notes at Page No. VI-3822-1 relating to Chapter Heading 38.22 States, *"This heading covers diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents, other than diagnostic reagents of heading 30.02 or diagnostic reagents designed to be administered to the patient and blood grouping reagents of heading Laboratory reagents include not only diagnostic reagents, but also other analytical reagents used for purposes other than detection or diagnosis. Laboratory reagents may be used in*

medical, veterinary, Scientific or industrial laboratories, in hospitals, in industry, in the field or, in some cases, in the home."

That, in the instant case, the imported goods viz. laboratory reagent is with a label and proper instructions for its use and it is being supplied to scientific laboratories.

- f. That, it is also not in dispute that the correct classification of such laboratory reagents is Chapter Heading 3822 of the Customs Tariff. It is further submitted that the Laboratory Reagents imported by the Appellant are in the nature of 'other analytical reagents used for purposes other than detection or diagnosis' and classified under Tariff Entry 3822 00 90 to CTA.
- g. That, the product viz. Laboratory Reagent is intended to be used exclusively for a specified analytical calibrating and referencing purposes and is classifiable under Tariff Item 3822 00 90 of the Customs Tariff, is not in dispute.
- h. That, Government of India has vide Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2018 (*'Rate Notification'*) notified the applicable rates of the Integrated Tax that shall be levied on inter-State supply of goods.

The issue under consideration in the present appeal is the applicability of rate of tax on supply of the Laboratory Reagent classifiable under Tariff Item 3822 00 90 in terms of in terms of the Rate Notification. It is submitted that the only *Entry* in the Rate Notification which covers all diagnostic kits and reagents falling under Chapter Heading 3822 is Entry No. 80 of Schedule-II which provides for IGST rate at 12%. The relevant entry reads as follows:

Schedule-III -12%

80.	3822	All diagnostic kits and reagents
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- i. The description under Entry No. 80 to Schedule II of the Rate Notification reads as "*All diagnostic kits and reagents*". It is submitted that Entry No. 80 covers two types of goods: '*All diagnostic kits*'; and '*Reagents*'.

The Appellant submits that the meaning of the term is wide enough to encompass both the diagnostic reagents as well as laboratory reagent.

- j. The Laboratory Reagents imported by the Appellant with a proper labeling and appropriate instructions for its use and is covered under HSN 3822 00 90 supra, and thus consequentially covered under the term 'reagent' in Entry No. 80 of Schedule II of the Rate Notification which read as "All diagnostic kits and reagents". Accordingly, the import and supply of Laboratory Reagent would attract a levy of Integrated Tax at the rate of 12 per cent.
- k. That, expression "**AND**" used in the term 'All diagnostic kits and reagents' is Conjunctive and **therefore the term 'Reagent' is a separately identified term.**

The Appellant submits that the said Entry under SI. No. 80 to the Notification has been incorrectly interpreted by the Authority in the impugned Ruling; that, the word 'reagent' is not preceded by the word 'Diagnostic'. Thus, by restricting the entry to only 'Diagnostic' the Authority in the impugned Ruling is adding words to the Entry under the said Notification, and the same is against the principles of interpretation of law; that, had the intention of the legislature been to include only diagnostic reagents in the above entry, then the legislature would have specified the same as 'all diagnostic kits and diagnostic reagents' in the Entry. The Appellant therefore submits that the word 'and' should be interpreted in a manner which is concomitant with the intention of the legislature and without adding words to the Entry under the said rate Notification.

- l. That, there is no **specific exclusion** or **qualification** to the term 'reagent' in the Entry.

That, upon perusal of the description under Entry No. 80 to Schedule-II of the Rate Notification, it leads to a clear conclusion that the Entry covers reagents which may be either used in laboratory or for diagnosis. The Appellant submits that there is no specific exclusion or qualification which has been used before the word 'reagent' in the Entry to evidence the exclusion of any particular type of 'reagent'. It is therefore submitted that in the absence of a specific exclusion or qualification to the term 'reagent', both laboratory reagents and diagnostic reagents shall be covered under Entry 80 of Schedule II of the Rate Notification.

- m. That, the above view is supported by the description of various goods provided in the Rate Notification, wherein if any product is

excluded from a particular heading, then such exclusions are specifically specified in the description itself. A table providing few entries in the Rate Notification, where the products are specifically excluded from the relevant Entry are as follows:

S. No.	Schedule	Chapter Heading	Description of Goods
212	I	5301	All goods i.e. flax, raw or processed but not spun; flax tow and waste (including yarn waste and garneted stock)
214	I	5303	All goods [other than coconut coir fiber] including yarn of flax, jute, other textile bast fibers, other vegetable textile fibers; paper yarn
159	III	5402, 5404, 5406	All goods other than synthetic

- n. It is submitted that in the above table, the scope of entry under S. No.212 under Schedule I is restricted by specifying the goods covered thereunder. Similarly, the description under S. No. 214 under Schedule I and S. No. 159 under Schedule II are restricted by identifying goods that are excluded. The entry under consideration, i.e., Entry No. 80 of Schedule II to the Rate Notification does not provide any such restriction by way of exclusion of any of the goods.
- o. this regard reliance is placed on the decision of the Hon'ble Uttarakhand High Court in the case of **Himalaya Stone Industries v. State of Uttarakhand and Others, [2013] 62 VST 233** wherein on the issue of inclusion of "grit" manufactured by stone crushers in item 94 of Schedule II(B) of the Uttarakhand Value Added Tax Act, 2005, the Court held that, in view of the amendment in the law, it has brought all types of grits within the item and, did not exclude any grit available from any sources. It was held that applying the principle of *ejusdem generis*, treating the Entry to mean grit only from one source is not permissible. The relevant extract of the decision is as follows:

"Prior to the amendment, the said item was as under:

'River sand and grit excluding (a) boulders and (b) grit and sand manufactured by stone crushers.'

The said entry was altered on January 21, 2006, to the effect as follows:

'River sand, grit and boulders.'

On a query made to the Commissioner under section 57 of the said Act, the Commissioner held that "grit" mentioned in entry 94 of the said Schedule with effect from January 21, 2006 shall also include "grit" manufactured by stone crushers. On an appeal preferred by the State before the Tribunal, the Tribunal has stated that the word "grit" finding place in item 94 of the said Schedule, must be a product of the river sand, not a product of the stone crushers. Challenging the said finding, the present revision application has been filed. Prior to January 21, 2006, the Legislature was aware that grit is available from more than one sources and, one of them was from stone crushers, accordingly, grit was brought within the said item, but grit manufactured by stone crushers Having had made the law with such knowledge, while the Legislature altered the law, it brought grit within the item and, accordingly, brought all types of grits within the item and, did not exclude any grit available from any sources. Applying the principles of ejusdem generis in the instant case and, treating the Source River, for the word "river" has been used before the word "sand", is not permissible. Consciously, sand manufactured by stone crushers has not been dealt with while effecting the amendment.

p. It is submitted that applying the ratio of the above dicta in the instant case, it is submitted that the legislature being aware of the fact there are different kinds of reagents, has brought all the reagents under specific entry in the said Rate Notification.

q. Reliance in this regard is also be placed on the case of **Nandi Printers Ltd. v. State of Karnataka** reported at **122 STC 164 (Kar)** where the issue was whether paper boards can be covered under the entry that reads as 'paper'. The High Court allowed such classification and held as under:

"It must be understood that the paper boards are a thicker or paper containing thin sheets of paper would not put it out of category of 'paper' and therefore, would not cease to be paper'.

- r. Therefore, in view it is submitted that Laboratory Reagent classified under Chapter heading 3822 to CTA is covered under the specific Entry No. 80 to Schedule-II of the Rate Notification which reads as "*All diagnostic kits and reagents*". Hence, vide this Entry; the supply of Laboratory Reagent would attract a levy of Integrated Tax at the rate of 12 per cent.
- s. The Appellant further submits that the Central Board of Indirect Taxes & Customs (Board) vide Circular F. No. 296/07/2017-CX.9 dated 15.06.2017 provided for a list of goods with reduced tax liabilities under GST regime in comparison to erstwhile combined indirect tax rates. As per the said Circular, for the majority of supplies of goods, the tax incidence approved by the GST Council would be much lower than the erstwhile combined indirect tax rates levied [on account of Central Excise duty rates / embedded Central Excise duty rates / Service Tax post-clearance embedding, VAT rates or weighted average VAT rates, cascading of VAT over excise duty and tax incidence on account of CST, Octroi, Entry Tax, etc.] by the Centre and States. The Appellant submits that the list of such supplies, where the GST incidence would be lower than the erstwhile combined indirect tax rates also included an Entry under SI. No. 48 as 'diagnostic kits and reagents'. In view of the said Circular dated 15.06.2017, the intention of the legislature was very clear to reduce the rate of tax on the supply of reagents.
- t. The Appellant submits that entry under SI. No. 453 to Schedule-III is a residuary entry which provides for an applicable rate of Integrated Tax at the rate of 18 per cent on all goods that are not specified in Schedule I, II, IV, V or VI of the Rate Notification. The Appellant further submits that the above residuary entry covers only those goods which are not specifically covered under in Schedule I, II, III, IV, V and VI of the Rate Notification. Laboratory classified under Tariff Item 3822 00 90 to CTA is covered under more specific Entry No. 80 to Scheduled I of the Rate Notification which reads as "All diagnostic kits and reagents". It is submitted that when the product is clearly falling under the ambit of a specific entry, then there shall be no reason to take resort to the residuary entry. Hence, 'Laboratory shall not fall under the residuary Entry No. 453 to Schedule III of the Rate Notification.
- u. The Appellant further submits that when there is a specific Entry under the Rate Notification covering laboratory reagent, classifying




the products in the residuary entry is not warranted. This view can be supported the plethora of judgments. In the following decisions, it has been held by the Court that when a product can be classified in specific entry, classification of the same in the residuary entry cannot be taken as refuse:-

-Akbar Badruddin Jiwani v. Collector of Customs, (1990 (47) E.L.T. 161(SC)) - 1990-VIL-08-SC-CU

-Commissioner of Customs v. G.C. Jain, [2011 (269) E.L. T. 307 (SC)]

- H.P.L. Chemicals v. C.C.E. [2006 (197) E.L.T. 324 (SC)] - 2006-VIL-32-SC-CE

-Western India Plywoods v. Collector of Customs, [2005 (188) E.L.T. 365 (SC)]- 2005-VIL-62-SC-CU

-C. CE v. Carrier Aircon, [2006 (199) E.L.T. 577 (S.C.)]- 2006-VIL-43-SC-CE.

- Speedway Rubber Company v. CCE, Chandigarh, [2002 (143) E.L.T. 0008 (S.C.)]- 2002-VIL-27-SC-CE

- In Re: M&I Materials India Put. Ltd. 2018 (15) G.S.T.L 423 (A.A.R. - GST) -2018-VIL-101-AAR

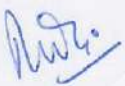
- In Re: Gopal Gireesh 2018 (13) G.S.T.L 469 (A.A.R. - GST) - 2018-VIL-77-AAR

v. The Appellant submits that the Entry Sl. No 80 of Schedule II under the Notification has been incorrectly interpreted by the Authority in the impugned Ruling. The impugned Ruling further applies the principle of ejusdem generis to conclude that the reagents of the class of diagnostic reagents are only covered under the Entry under Sl. No. 80 to Schedule II to the Rate Notification which is incorrect.

w. The Appellant submits that all the Notifications must be interpreted strictly. It is further submitted that no one is at liberty to add or modify the words of the entry while interpreting the scope of the notification. This has also been laid down by the Hon'ble Supreme Court in the following cases: Saraswati Sugar Mills v. Commissioner of C. Ex., Delhi-III, 2011 (270) E.L.T. 465 (S.C.) - 2011-VIL-06-SC-CE, Hotel Leela Venture Ltd. v.

Commissioner of Cus. (Gen.), Mumbai, 2009 (234) E.L.T. 389 (S.C.): Commissioner of C. Ex. Jaipur v. Mewar Bartan Nirman Udyog, 2008 (221) E.L.T. 27 (S.C.) - 2008-VIL-54-SC-CE. The Appellant further submits that term 'and' as used in the Entry under SI. No. 80 has been used to separate the words, 'All diagnostic kits' and 'Reagents'. Therefore, the term 'reagents' has to be treated as a separate word whose identity shall be separate from the words preceding it.

- x. The Appellant further submits that since no specific exclusion or qualification which has been used before the word 'reagent' under SI. No. 80 to evidence the exclusion of any particular type of 'reagent' in the absence of such specific exclusion or qualification to the term 'reagent', both laboratory reagents and diagnostic reagents shall be covered under SI. No. 80 to Schedule II of the Rate Notification.
- y. That in the 16th GST Council Meeting dated 11.06.2017. the Agenda item No 3 (SI. No 41) relates to the rate adjustments based on the recommendations received from Trade and Industry and the Fitment Committee as per its mandate and after analyzing the tax incidence on the diagnostic and laboratory Reagents, made the recommendation that the proposed GST rate on "Diagnostic or Laboratory Reagents" will be 12% as against the GST Council approved rate of 18%. Subsequent to the 16th GST Council meeting on 11-06-2017 the CBIC issued the Circular dated 15-06-2017 giving the list of goods with reduced tax liabilities under GST regime in comparison to erstwhile combined indirect tax rates; that 48 of the said Circular relates to "Diagnostic kits and reagents" classified under Chapter Heading 3822.
- z. We would also submit that in terms of Section 98(6) of the CGST Act, the Advance Ruling Authority should have pronounced the Ruling in writing within 90 days from the date receipt of application. In the instant case, the Appellant filed the application on 14.10.2019 whereas the Authority has pronounced the impugned Ruling bearing No. memo no. 1055/AAR dated 28th August, 2020 after a period of almost 10 months from the date of application. Thus, the Appellant submits that there is an inordinate and unexplained delay in pronouncement of the Ruling by the Advance Ruling Authority. We would like to draw your kind

attention that as per provisions of Income Tax Act ie. Section 153, where it is categorically written:

"No order of assessment shall be made under section 143 or section 144 at any time after the expiry of :

- 1) Two years from the end of the assessment year in which the income was first assessable, or
- 2) One year from the end of the financial year in which a return or a revised return relating to the assessment year commencing",

Further like to draw your kind attention to the provisions of HVAT Act i.e. Section 15, where it is categorically written:

"Provided that no order under this sub-section shall be passed after the expiry of three years from the close of the year to which the assessment relates".


Hence as per the intention of the law makers is that order/decision should be outside the hands of the AAR before 14.01.2020 in GST Act.

Further like to draw your kind attention to the decision of Hon'ble Supreme Court of India in the case of M. Ramakishtai & Co. reported as 93 STC page 406, where Hon'ble Supreme Court has held:-

"The order was said to have been made on January 6, 1973, but it was served after the expiry of four years from the date of assessment order, on the assessee on November 21, 1973, 10.5 months later. There was no explanation by the Deputy Commissioner why the service of the order was so delayed:

Held that, in the absence on any explanation whatsoever, the court must presume that the order was not made on the date it purported to have been made and that it could have been made after the expiry of the period of four years prescribed for passing such an order in revision. The order was bad."

The force is also drawn from the decision of Hon'ble High Court of Andhra Pradesh at Hyderabad in the case of Ushodaya Enterprises reported as 111STC 711, where Hon'ble High Court has held :-

“Limitation — Order served on dealer after expiry of limitation 8 months after date of passing — presumption that order not passed on purported date — order liable to be quashed -Andhra Pradesh General Sales Tax Act (6 of 1957).”

The force is also drawn from the decision of Hon'ble Sales Tax Tribunal Haryana in the case of M /s Krishana Traders reported as 8 PHT 102, where Hon'ble Tribunal has held:-

“Mere signatures on the order sheet on the date of passing of the order cannot be taken that assessee is delivered the copy of the order.”

It goes to prove that order passed by AAR is time barred and beyond the limit prescribed under GST Act. The pronouncing of decision after ten months of the date of application in back date defeats the very purpose of Advance Ruling and shakes the confidence of the taxpayers in tax administration. The appellant further submits that the impugned ruling is barred on jurisdiction and is liable to be declared void.

IV. RECORD OF PERSONAL HEARING

Ms. Monika Goyal attended the personal hearing on behalf of the Appellant through video conferencing and emphasized on all the points already made in the Appeal whether as the grounds of Appeal or as their understanding of the facts in the case.

V. DISCUSSION AND FINDINGS

From the Grounds of Appeal, the appellant's submissions can be summed up as under:

- That, in the notification [01/2017-CT(R) dated 28.06.2017] providing the GST rates, there is a clear entry [No. 80] providing 12% GST rate for the “*diagnostic and laboratory reagents*” which covers all reagents falling under Chapter Heading 3822; That, Harmonized Commodity Description and Coding System Explanatory Notes (ENs) and the HSN notes support their interpretation.
- That, Karnataka Appellate Authority for Advance Ruling (AAAR) in the matter of Chromachemie Laboratories Private Limited has held the Heading 3822 of the Customs Tariff as including both

Q
Ans.

diagnostic and laboratory reagents and the ruling supports their case clearly.

- That various other judgments also support their case.

We find that the Appellant has argued his case on the principles of classification. The Ruling by Karnataka Appellate Authority has also been relied upon by the Appellant in the same line.

CLASSIFICATION

We find that Appellant has wrongly argued on the principles of classification since the Entries under notification 1/2017-CT(R) dated 28.06.2017 are basically taxation slabs and not classification headings. These are meant to provide different tax rates even for goods which may classify under same heading/ sub-heading of a Section under Customs Tariff Act 1975.

I. **Entry 80 covers their goods:**

We find that the Appellant has submitted in the Grounds of Appeal that the goods imported by them viz. Laboratory Reagents are imported with a proper labeling and appropriate instructions for its use and is covered under HSN 3822 00 90, and thus consequentially covered under the term 'reagent' in Entry No. 80 of Schedule II of the Rate Notification which reads, "*All diagnostic kits and reagents*".

Thus, the Appellant's goods are admittedly *Laboratory Reagents*.

Now, the Entry 80 of Schedule II, and the residuary S.No.453 of Schedule III, of the Notification 1/2017-CT(R) dated 28.06.2017, are reproduced here for ready reference:

Schedule II – 6%

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
80.	3822	All diagnostic kits and reagents

Schedule III – 9%

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
453.	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI

A plain reading of the entry at Sr. No. 80 makes it clear that only the *Diagnostic Kits and Reagents* of Chapter Heading 3822 have been placed under Schedule II which attracts a lower rate of GST viz. 12%.

The Chapter 3822 of the 1st Schedule to the Customs Tariff Act 1975 is also being reproduced below for ready reference:

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
3822	DIAGNOSTIC OR LABORATORY REAGENTS ON A BACKING, PREPARED DIAGNOSTIC OR LABORATORY REAGENTS WHETHER OR NOT ON A BACKING, OTHER THAN THOSE OF HEADING 3002 OR 3006; CERTIFIED REFERENCE MATERIALS			

From the Heading 3822 it is clear that the same applies to Diagnostic Reagents and also to Laboratory Reagents.

The word '*Diagnostic*' concerns with the diagnosis of illness, or other problems. Laboratory reagents, whereas, can be those meant for laboratories other than diagnostic laboratories.

We find that as per Appellant's own submission their goods are '*Laboratory Reagents*' and it is very clear from the Appellant's submissions that their goods are not *Diagnostic Reagents*, but are other laboratory reagents.

1.1 The thrust of the Appellant's submissions is that all the goods of the Heading 3822 have been described against entry 80. *ibid* and therefore their goods viz. '*Laboratory Reagents*' are included therein. That, the word '*And*' used in the description is meant to separate the 2 items viz. the '*Diagnostic kits*', and the '*Reagents*'.

From a plain reading of the relevant entries 80 it appears that concessional rate of GST is applicable only to the '*Diagnostic kits and Reagents*' and not to all the items covered under Heading 3822.

PRESENT POSITION

It is found that CBIC, in the meanwhile, has vide a TRU Circular No. 163/19/2021-GST dated 6th October 2021, issued under F. No. 190354/206/2021-TRU has vide Para 10, clarified about '*All laboratory reagents and other goods falling under heading 3822*' as under:

"10. All laboratory reagents and other goods falling under heading 3822: -

10.1 Entry at S. No. 80 of Schedule II of notification No.1/2017-Integrated Tax (Rate) dated 28.6.2017 prescribes GST rate of 12% for "All diagnostic kits and reagents".

10.2. Representations have been received whether the benefit of concessional rate of 12% would be available to laboratory agents and other goods falling under heading 3822


10.3 Heading 3822 covers "Diagnostic or Laboratory Reagents, Certified Reference Materials etc."


10.4 The issue was placed before the GST Council and on its recommendations, it is clarified that the intention of this entry was to prescribe GST rate of 12% to all goods, whether diagnostic or laboratory reagents, falling under heading 3822.

10.5 It is accordingly clarified that concessional GST rate of 12% is applicable on all goods falling under heading 3822, vide Entry at S. No. 80 of Schedule II of notification No.1/2017-Integrated Tax (Rate) dated 28.6.2017."

VI. RULING:

In view of the above discussions and findings and the CBIC's Circular No. 163/19/2021-GST dated 6th October 2021, issued under F.No. 190354/206/2021-TRU, we hold that concessional GST rate of 12% is applicable on all goods falling under heading 3822, vide Entry at S.No. 80 of Schedule II of notification No.1/2017-Integrated Tax (Rate) dated 28.6.2017, including to Laboratory Reagents being imported and supplied by the Appellant.


(Shekhar Vidyarthi)
Member (SGST)


(Rajesh Sodhi)
Member (CGST)

Regd. AD/Speed Post

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Copy to:

1. The Commissioner of Central Goods & Service Tax, GST Bhawan, Plot No. 36-37, Sector 32, Gurugram, Haryana.
2. Assistant Commissioner, Division - West-1 (Range-43), CGST Gurugram, GST Bhawan, Plot No. 36-37, Sector 32, Gurugram, Haryana.
3. Deputy Excise and Taxation Commissioner, Gurugram West (Ward-1), Gurugram. Haryana.