

HIMACHAL PRADESH AUTHORITY FOR ADVANCE RULING
(Constituted under section 96 of HPGST/CGST Act, 2017)
BEFORE THE BENCH OF

1. Shri Rakesh Sharma, Addl. Commissioner of State Tax
2. Shri Abhay Gupta, Joint Commissioner of Central Tax

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|--------------------------------------------|----------------------------------------------------------------------------------------|
| Name & Address of the Applicant | M/s Newtramax Healthcare, Chaman Vatika, Nahan Road, Puruwala, Sirmour, HP. |
| GSTIN of the Applicant | 02AAFFN5565L1Z3 |
| Date of Application | 27-06-2019. |
| Question on which Advance Ruling is sought | Whether the product/s being manufactured by the applicant fall under HSN 2106 or 3004? |

ORDER

The applicant is a registered person engaged in manufacture and supply of Pharmaceutical formulations. He has obtained loan licence to manufacture for sale or distribution of drugs specified in schedule C and schedule C1 of the drugs and cosmetics Act, 1940.

RECORDS OF PERSONAL HEARING – 2nd PROVISOS TO SECTION 98(2) OF CGST/HPGST ACT, 2017

Opportunity for personal hearing was granted to the applicant on 16-10-2019 & 15-11-2019, which was attended by Sh. Rajesh Gupta, Advocate on behalf of the applicant. The authorized representative of the applicant reiterated the submissions made in the application and requested to provide ruling on the same.

After detailed hearing the application was admitted as the questions raised by the applicant are covered under section 97 (2) (d) of the CGST/HPGST Act, 2017.

DISCUSSIONS AND FINDINGS OF THE AUTHORITY

We have carefully gone through the application and submissions made by the applicant.

The applicant has valid licence to manufacture for sale or distribution of drugs specified in Schedule - C and Schedule C1 of the Drugs and Cosmetics Act, 1940 at premises of M/s Tirupati Medicare Ltd. at Paonta Sahib District Sirmour Himachal Pradesh issued by the competent authority w.e.f 26th May, 2015 to 25th May, 2020. The list of products with total of 25 items approved by the drug licensing authority includes Protein Powder with Vitamins and Minerals at Sr. No. 20 and 21 was produced. Copy of the labels of the products being manufactured under Sr. No. 20 and 21 by the applicant on which the ruling has been sought were also produced. All the labels mention the Drug Manufacturing License No. NL-MB/2015-162 and ingredients. The labels also mention prominently *Dosage: As directed by the physician and for Prophylactic Use only.* The products at Sr. No. 20 & 21 (Protein Powder with Vitamins and Minerals) are mentioned at serial Number 138 of the Fixed Dose Category under Schedule C of the drugs and cosmetics Act permitted for continued manufacturing as on 12.7.2018.


The contention of the applicant is that the goods i.e. Protein Powder with Vitamins and Minerals being manufactured by him fall under the drugs category under HSN 3004 as these are being manufactured under a valid drug license after obtaining necessary approvals from competent authority. The applicant has so far been classifying the goods under HSN 2106. He has contended that the other manufacturers under similar conditions i.e. with a valid drug license and with necessary approvals from the appropriate drug authorities are classifying the goods under HSN 3004.

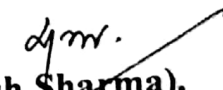
dy The description of the goods under the hs codes 3004 is "Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or pro-phylactic uses,-----"

We have carefully gone through the arguments of the applicant and evidences produced. We are of the considered opinion that all the goods being manufactured by the applicant which are mentioned (including the goods mentioned at Sr. No. 20 and 21) in the drug license issued to the applicant by the competent authority and have the labels as per the standards prescribed under the Drugs and Cosmetics Act, 1940 can be classified under hs code 3004.

Announced.

Dated: 15-11-2019.


(Abhay Gupta),
Joint Commissioner of Central Tax


(Rakesh Sharma),
Addl. Commissioner of State Tax