

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
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PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur (C.G.)

Subject :- Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 sought by Application dated 16/03/2021 from M/s Bhavya Srishti Udhog Private Limited (here in after referred to as the applicant) Prerna Vidhyalaya Campus, Kritpur Road, Katiya, Bemetara, Chhattisgarh GSTIN- 22AAICB8158P1Z5, regarding classification of their product namely "Waterproof Trellis support for climbing plants manufactured by using bamboo and High-Density Polyethylene".

Read :- Application dated 16/03/2021 from M/s Bhavya Srishti Udhog Private Limited, Prerna Vidhyalaya Campus, Kritpur Road, Katiya, Bemetara, Chhattisgarh GSTIN- 22AAICB8158P1Z5.

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/03/2021

Raipur Dated ..18.06.2021

M/s Bhavya Srishti Udhog Private Limited, Prerna Vidhyalaya Campus, Kritpur Road, Katiya, Bemetara, Chhattisgarh GSTIN- 22AAICB8158P1Z5, [hereinafter also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling regarding GST classification of their product namely "Waterproof Trellis support for climbing plants manufactured by using bamboo and High-Density Polyethylene".

2. Facts of the case:-

2.1 The applicant, M/s Bhavya Srishti Udhog Private Limited, Bemetara, Chhattisgarh holding GSTIN- 22AAICB8158P1Z5 is engaged in manufacturing of waterproof Trellis support for Climbing plants using bamboo and High-Density



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Polyethylene. The applicant has in their application specified that this invention relates to the field of chemical engineering and Agriculture more particularly a system to design waterproof Trellis support for climbing plants with sturdy bamboo sticks by extending its life span by coating it with High-Density Polyethylene. High-Density Polyethylene is highly resistant to heat, light and water and other forces of nature along with to the stress caused due to pulling and the ability to bend to take the strain due to high winds. The details and specification of the said product has also been furnished as Annexure-I. It has further been specified by the applicant that this invention comprised of a design and mechanism of a trellis support made using bamboo coated with High-Density Polyethylene which is highly resistant to heat, light and water and other forces of nature along with to the stress caused due to pulling. High-Density Polyethylene protects the encased bamboo material from rapid weathering, thus taking advantage of both that is the strength and tensile strength of bamboo and the rugged nature of HDPE respectively. The design has been equipped with a ground anchor to hold the structure steadily into the ground. The ground anchor is made using Nylon 66 plastic which provides great strength and ensures that there is no rotting. The ground anchor has a self-drilling mechanism to make the installation and used of this design of trellis support easy and weather friendly due to its pressure bearing capacity.

2.2 The applicant has also submitted that Garden vegetables and fruits can produce much higher yields when they are allowed to reach the plants' maximum height. For example, tomatoes, cucumbers, pole beans, squashes and many other vegetables may grow up to heights exceeding 8-10 feet and, in turn, will produce fruit proportionally. Although support devices for garden vegetables are well known, current devices in the market do not provide the area to support plants to this height, nor can these devices typically accommodate multiple plants on the same support device. Many support devices in the market place are not taller than six feet and do not enable the user to adjust the height of the device according to the desired type of plant or specific individual plant and vegetable needs. In addition, current gardening support devices generally lack the structural strength to support plants exceeding five feet in height. Frequently, support devices and garden trellises are made of wood and, in turn, are fastened to the ground using wood stakes. Although treated, these wooden support devices are not fully weather-proof and thus are often subject to rot and excessive wear or splitting over a period of time. Such rot is most often found near the lower end of the wood support or about the stakes due to constant exposure to ground moisture. As a result, such support devices will become out of line, tilt or even break due to winds and/or the weight of the plants. According to the applicant, this invention of trellis support is designed from the utilization of bamboo sticks treated with High Density Polyethylene which is highly resistant to heat, light and water & other forces of nature. The coating ensures that the life of the bamboo support is extended and it provides the required sturdiness without breaking. It avoids any form of impact due to climate



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change extending the life spans of the support by avoiding rotting at the grounded end. For easy installation of the poles, it has been equipped with a ground anchor which has a self-drilling mechanism to get the frame easily grounded for the plantation of climber plant.

2.3 Based on the details furnished, the applicant have themselves summarized their product as under:-

- (a) A Trellis support consists of bamboo sticks coated with High-Density Polyethylene to make the bamboo weather proof and to avoid rotting and breaking under any pressure or stress of pulling or others.
- (b) The bamboo sticks in a Trellis support are coated with High-Density Polyethylene making it resistant to heat, light and water and other forces of nature.
- (c) The Trellis support has self-drilling mechanism designed into a ground anchor for self-installation of the post.
- (d) The Trellis support has the ground anchor made using Nylon 66 plastic with glass filled raw material.

2.4 It is in this back drop, that the applicant is seeking ruling regarding GST classification of their aforesaid product named "Waterproof Trellis support for climbing plants manufactured by using bamboo and High-Density Polyethylene".

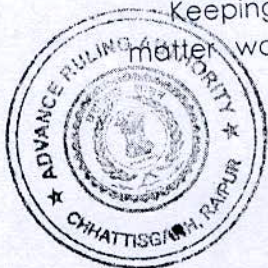
3. Contentions of the applicant:-

3.1 That, as per Notification No. 2/2017-Centra Tax (Rate) dated 28th June, 2017, Sr. No. 137 (HSN 8201) "Agricultural implements manually operated or animal driven i.e. Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry other than ghamella" has been exempted.

3.2 Accordingly, in view of the above, applicant's claim is that their aforesaid product viz. "waterproof Trellis support for Climbing plants using bamboo and High-Density Polyethylene" is a tool used in agriculture, horticulture or forestry and meriting classification under heading 8201 of Custom Tariff Act, 1975, attracting NIL rate of GST.

4. Personal Hearing:-

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant in person, as requested by them and



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accordingly, Shri Gopal Krishna Tawaniya, Advocate and authorized representative of the applicant appeared before us for hearing on 31.03.2021 and reiterated their contention. He also furnished a written submission dated 31.03.2021, which has been taken on record.

5. The legal position, analysis and discussion: - At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

5.1 As elaborately brought out by the applicant in their application, they are engaged in the making of waterproof Trellis support for Climbing plants using bamboo and High-Density Polyethylene which consists of bamboo sticks coated with High-Density Polyethylene so as to make the bamboo weather proof and to avoid rotting and breaking under any pressure or stress of pulling or others. These bamboo sticks are coated with High-Density Polyethylene making it resistant to heat, light and water and other forces of nature. This Trellis support has self-drilling mechanism designed into a ground anchor for self-installation of the post and it has the ground anchor made using Nylon 66 plastic with glass filled raw material. The applicant in their instant application before us, has opined that the said "Waterproof Trellis support for Climbing plants using bamboo and High-Density Polyethylene" is a tool used in agriculture, horticulture or forestry meriting classification under heading 8201 of Custom Tariff Act, 1975, in terms of Sr. No. 137 (HSN 8201) of Notification No. 2/2017-Centra Tax (Rate) dated 28th June, 2017 attracting NIL rate.

5.2 Thus we proceed to discuss the issues involved regarding classification of their above said product and its applicability to the exemption as provided under Notification No. 2/2017-Centra Tax (Rate) dated 28th June, 2017. We have carefully considered the various submissions made by the applicant and the applicable statutory provisions. The issue before us for determination is whether their product named 'waterproof Trellis support for climbing plants using Bamboo and High-Density Polyethylene' supra, falls under "Tariff item"/ "sub-heading"/ "heading" / "Chapter" 8201, eligible for exemption from GST as a tool used in agriculture, as claimed by the applicant.

5.3 For sake of reference, the text of aforesaid Notification no. 2/2017-Centra Tax (Rate) dated 28th June, 2017 is reproduced here under:-



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In exercise of the powers conferred by sub-section (1) of Section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods, the description of which is specified in column (3) of the Schedule appended to this notification, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule, from the whole of the Central tax leviable thereon under Section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

SCHEDULE

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
1.	0101	Live asses, mules and hinnies
2.	0102	Live bovine animals
3.	0103	Live swine
4.	0104	Live sheep and goats
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..
137.	8201	Agricultural implements manually operated or animal driven i.e. Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry.

Explanation. - For the purposes of this Schedule, -

- (i)
- (ii)
- (iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).



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(iv) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 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.

2. This notification shall come into force with effect from the 1st day of July, 2017.
[Notification No. 2/2017-Central Tax (Rate), dated 28-6-2017]

5.4 In the aforesaid context, there remains no ambiguity as regards the fact that the impugned product of the applicant named as 'waterproof Trellis support for climbing plants using Bamboo and High-Density Polyethylene', is bamboo treated with High density polyethylene solely with an aim to make it resistant to heat, light and water and other natural eventualities so as to enhance the life of this bamboo support to ensure the required sturdiness, preventing it from breaking or to make it break resistant. This treatment of bamboo avoids it from any impact due to climate change extending the life spans of the support by avoiding rotting at the grounded end. Besides this for easy installation of the poles, it has been equipped with a ground anchor which has a self-drilling mechanism to get the frame easily grounded for the plantation of climber plant. All this is very well evident from the technical data about their product, as furnished by the applicant as discussed above.

5.5 It will also be not out of place to mention here that classification of goods for the purposes of GST is based on the entries in the First Schedule to the Customs Tariff Act, 1975. Also it is worth noting that, as per explanation (iii) and (iv) to Notification No. 2/2017-Central Tax (Rate), dated 28-6-2017 supra, tariff heading, sub-heading, heading and chapter shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

5.6 To have a more in-depth examination in this regard, the text of Section Notes, Chapter Notes, and Chapter Heading relevant to Chapter 8201 are reproduced here under:

Section Notes:

SECTION XV

BASE METALS AND ARTICLES OF BASE METAL

NOTES:

1. This Section does not cover :



.....
3. Throughout this Schedule, the expression "base metals" means :

iron and steel, copper, nickel, aluminium lead, zinc, tin, tungsten (wolfram), molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.

Chapter Notes :

CHAPTER 82

Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal

NOTES :

1. Apart from blow lamps, portable forges, grinding wheels with frameworks, manicure or pedicure sets, and goods of heading 8209, this Chapter covers only articles with a blade, working edge, working surface or other working part of :

(a) base metal;

(b) metal carbides or cermets;

(c) precious or semi-precious stones (natural, synthetic or reconstructed) on a support of base metal, metal carbide or cermet; or

(d) abrasive materials on a support of base metal, provided that the articles have cutting teeth, flutes, grooves, or the like, of base metal, which retain their identity and function after the application of the abrasive.

.....
Chapter Heading 8201 :

Tariff Item	Description of goods	Unit
(1)	(2)	(3)
8201	Hand tools, the following: spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry.	



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8201 10 00	- Spades and shovels	kg.
8201 30 00	- Mattocks, picks, hoes and rakes	kg.
8201 40 00	- Axes, bill hooks and similar hewing tools	kg.
8201 50 00	- Secateurs and similar one-handed pruners and shears (including poultry shears)	kg.
8201 60 00	- Hedge shears, two-handed pruning shears and similar two-handed shears	kg.
8201 90 00	- Other hand tools of a kind used in agriculture, horticulture or forestry	kg.

5.7 On perusal of the above Section notes, Chapter Note and Chapter heading, it gets amply clear that 'Base metals and articles of base metals' are only covered under Section XV of the Customs Tariff Act.

Further as per Section Note 3 'Base metals' means "iron and steel, copper, nickel, aluminium, lead, zinc, tin, tungsten, molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium". Besides this, Chapter Note 1 of 'Chapter 82 - Tools, implements, cutlery, spoons and forks of base metal; and parts thereof base metal' states that this Chapter covers only articles with a blade, working edge, working surface or other working part of base metal, metal carbides or cermets, Precious or semi-precious stones on a support of base metal, abrasive material on support of base metal.

5.8 This goes on to establish that Chapter 82 of the Customs Tariff Act covers only those articles which are made of base metals, whereas admittedly it is evident from the technical data submitted by the applicant that the impugned 'Waterproof Trellis support for climbing plants using Bamboo and High-Density Polyethylene' is nothing but Bamboo treated with High density polyethylene and can in no way be termed as "Base metals".

5.9 In this context, we would also like to cite the judicial pronouncement of Hon'ble Apex Court in the case of *L.M.L. Ltd. v. Commissioner of Customs*, [2010 (258) E.L.T. 321 (S.C.)], holding that Customs Tariff is based on the Harmonious System of Nomenclature (HSN) which is a dependable guide for interpreting the Customs Tariff.

Further for sake of reference, the Explanatory Notes 'General' to Chapter 82 is reproduced here as under:



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GENERAL

This Chapter covers certain specific kinds of base metal articles, of the nature of tools, implements, cutlery, tableware, etc., which are excluded from the preceding Chapters of Section XV, and are not machinery or appliances of Section XVI (see below), nor instruments or apparatus proper to Chapter 90, nor articles of heading 96.03 or 96.04.

This Chapter includes :

- (A) Tools which, apart from certain specified exceptions (e.g., blades for machine saws), are used in the hand (headings 82.01 to 82.05).
- (B) Tools of two or more of the headings 82.02 to 82.05, put up in sets for retail sale (heading 82.06).
- (C) Interchangeable tools for hand tools, for machine-tools or for power-operated hand tools (heading 82.07), knives and blades for machines or mechanical appliances (heading 82.08) and plates, sticks, tips and the like, for tools (heading 82.09).

.....
Tools, cutlery, etc., do not in general fall in this Chapter unless the blade, working edge, working surface or other working part is of base metal, of metal carbides (see the Explanatory Note to heading 28.49) or of cermets (see the Explanatory Note to heading 81.13); provided, however, that this condition is met, they remain in the Chapter even if fitted with non-metallic handles, bodies, etc., of a weight exceeding that of the metallic working part, (e.g., a wooden plane with a metal blade).

The Chapter also, however, includes tools if the working part is of natural, synthetic or reconstructed precious or semi-precious stones (e.g., black diamonds) fitted onto a support of base metal, metal, carbides or cermets; further, in certain cases, the working part may be of base metal fitted or covered with abrasive materials.

There are exceptions to these general rules in the case of certain articles specifically mentioned in the headings (e.g., portable forges and grinding wheels with frameworks). Moreover, very few abrasive tools remain in the scope of the Chapter (see the Explanatory Notes to headings 82.02 and 82.07), since heading 68.04 covers grinding wheels and the like (including grinding, sharpening, polishing, trueing and cutting wheels, heads, discs and points), of natural stone, of agglomerated abrasives, or of ceramics, with or without cores, shanks, sockets, axles or the like of other materials, but without frameworks.



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Interchangeable tools of base metal, for hand tools, for machine tools or for power-operated hand tools, which are excluded from this Chapter because their working part is not one of the materials specified to Note 1, generally fall to be classified according to the constituent material of the working part, e.g., those of rubber (Chapter 40), leather (Chapter 42), furskin (Chapter 43), cork (Chapter 45), textile fabric (Chapter 59), ceramic materials (heading 69.09). Brushes for use on machines are classified in heading 96.03.

Thus from the general notes as above, it follows that only those tools, implements, etc., made of base metals are classifiable under Chapter 82 of the Tariff and items whose working part is not one of the base metals are to be classified according to the constituent material of the working part.

Chapter 82 covers only those tools made of base metals and the description covered under Tariff heading / Tariff item 8201 attracts the application of the principle of 'ejusdem generis' for interpretation of the phrase "Other tools of a kind used in agriculture...". The 'ejusdem generis' principle specifies that "general terms following particular expressions take their colour and meaning as that of the preceding expressions". Applying this, we find that in Chapter 8201, the specifics are spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and the subsequent phrase "and other tools of a kind used in agriculture..." is a general expression following the specific enumeration. The specifics mentioned are all of which has a working edge as required for a tool to be classified under Chapter 82. Thus only those hand tools which are of base metal and has a working edge, used as a hand tool in agriculture merits classification under this residual entry. The product at hand is definitely not made of base metal nor it has a working edge as required of a tool under this Chapter and therefore the applicant's product by no stretch of imagination could be classified under Chapter 8201, as claimed by the applicant. Classification under a Heading is to be governed only by the relevant Tariff-entries, Heading-description, etc. Heading 8201, does not envisage that all items used in an agriculture field would be covered therein. The instant product can also not be classified under 8201 as Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry. We find no rationale in the opinion put forth by the applicant in as much as, assuming but not acceding if the said interpretation of applicant is considered then even the wire fence used for a boundary in agricultural field would also qualify being termed as agricultural tool/ implements. The impugned product is purely a support made of bamboo for creeper vegetables/ crops. Thus we come to the conclusion that the applicant is not eligible for exemption from tax on the said 'Waterproof Trellis support for climbing plants using Bamboo and High-Density



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Polyethylene', provided under Notification no. 2/2017-Central Tax (Rate), dated 28-6-2017.

6.5 Now coming to the classification of the said product of the applicant named as Waterproof Trellis support for climbing plants using Bamboo and High-Density Polyethylene. Section II, CHAPTER 14 of Customs Tariff covers Vegetable plaiting materials; vegetable products not elsewhere specified or included. Tariff item 14011000 covers "Bamboos" in its ambit. Chapter note 2 of Chapter 14 specifies that Heading 1401 applies, *inter alia*, to bamboos (whether or not split, sawn lengthwise, cut to length, rounded at the ends, bleached, rendered non-inflammable, polished or dyed), split osier, reeds and the like, to rattan cores and to drawn or split rattans. Accordingly, the subject item is classifiable under CTH 14011000.

7. Having regard to the facts and circumstances of the case and discussions as above, we pass the following order:-

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/03/2021

Raipur Dated ..18/06/2021

The ruling so sought by the Applicant is accordingly answered as under:

RULING

Applicant's product named "Waterproof Trellis support for climbing plants using bamboo and High-Density Polyethylene" are not eligible for exemption provided under sr. no. 137 of Notification No. 2/2017-Central Tax (Rate), dated 28-6-2017. The said product merits classification under Custom Tariff Heading 14011000.

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(Member)

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