

**GUJARAT AUTHORITY FOR ADVANCE RULING  
GOODS AND SERVICES TAX  
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,  
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2023/21  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2023/AR/01)

Date: - 12 .06.2023

|  |   |  |
|--|---|--|
| Name and address of the applicant  | : | M/s. Devendrakumar Rambhai Patel<br>Milkat No. 1276,<br>Maneklal Shanabhai Parmar,<br>Timba, Anand,<br>Gujarat 388170. |
| GSTIN of the applicant   | : | 24BVAPP6398C1ZH  |
| Date of application  | : | 06.01.2023   |
| Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised. | : | (a)  |
| Date of Personal Hearing   | : | 23.03.2023   |
| Present for the applicant  | : | Shri Devendra R Patel,<br>Shri Hiral C Patel, CA<br>Shri Bhavik Prajapati, CA<br>Shri A.R.Patel.                       |

**Brief facts:**

M/s. Devendrakumar Rambhai Patel, Milkat No. 1276, Maneklal Shanabhai Parmar, Timba, Anand, Gujarat 388 170 [for short-‘applicant’] is registered under GST and their GSTIN is 24BVAPP6398C1ZH.

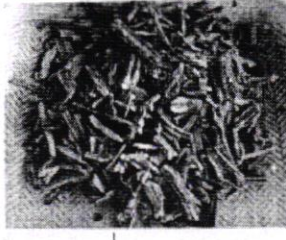
2. The applicant is engaged in the business of wholesale/retail trading of unprocessed tobacco which they purchase directly from the farmers. Shri Devendrakumar Rambhai Patel, is the proprietor & carries out his business with his own name as their trade name.

3. The applicant, now wishes to undertake supply of the product known as ‘Kandi Ravo’, which is a tobacco waste. The manufacturing process is mentioned in detail, which is reproduced below for ease of reference viz



કાંડી રવો બનાવવાની વિધિ. (Process of Making Kandi Ravo)

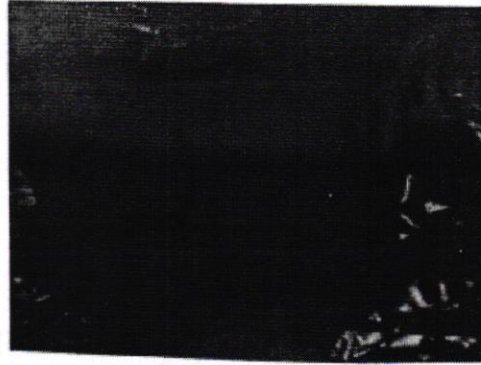
તંબાકુ પાનનો વેસ્ટ (જે તંબાકુના પાનમાંથી વઘેલ ડુડા) – (Tobacco West)  
(Photo-1)



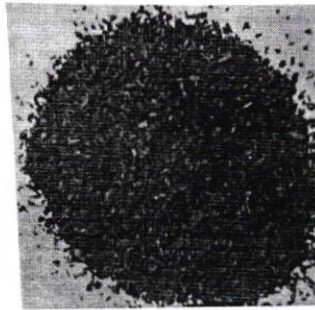
તંબાકુ પાનનો વેસ્ટ ((જે તંબાકુના પાનમાંથી વઘેલ ડુડા) ને ભૂકો કરવામાં આવે છે.  
(Photo-2) – (After Removing Tobacco Leave, the remaining Parts of Tobacco west is crushed)



પછી તેમાં કુદરતી માટી અને પાણી સાથે મીક્ષ કરવામાં આવે છે. (Then after a Natural clay is added  
with Crushed tobacco west along with Water)  
(Photo-3 – કુદરતી માટી)



ત્યાર બાદ તેને સુકવવામાં આવે છે. (And in Last after drying the mixture, it is packed)



સુકવીને તેને ૩૦ કે ૩૫ કિલો ગ્રુપ માં (ગુણબંધી) માં વેચવામાં આવે છે. (આને અમે કાંડી રવો કહીએ છીએ.  
જે તંબાકુ વેસ્ટમાંથી બનાવવામાં આવે છે.) – (After dry up – it is sold in 30 to 35kg packing.)

4. Additionally, the applicant states that their product falls under the category of 'unmanufactured tobacco without lime tube; that they will not be selling any tube of lime inside the pouches; that though the waste tobacco is mixed with natural clay and water, the nature of the product is not altered & even the consumer base remains the same ie tobacco manufacturers; that it is never used in





pan masala and is never put in a paan [also called *betel quid*, (source Britannica)]; that it is different from chewing tobacco and zarda scented tobacco; that as per their understanding GST compensation cess is also not leviable on the product. The applicant has further informed that it is sold in 30-35 kg bags & its price range is also not similar to that of chewing/scented tobacco.

5. In view of the foregoing, the applicant has sought a ruling on the following question *viz*

1. What will be the classification of the goods '*Kandi Ravo*'.

6. Additional Commissioner(Technical), Central Goods & Service Tax, Vadodara-I Commissionerate, vide his letter no. IV/16-22/Tech/AR/M/s. D R Patel/22-23 dated 17.3.23, offered the following comments *viz*

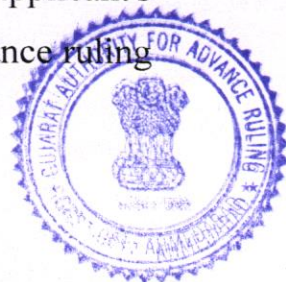
- that the activity/service in respect of which Advance Ruling is sought is an ongoing activity;
- that no such cases are pending before any appellate authority;
- that the goods may be covered under HSN code 24012090.

7. Personal hearing in the matter was held on 23.3.2023, wherein Shri Devendra R Patel, Shri Hiral C Patel, CA, Shri Bhavik Prajapati, CA, Shri A.R.Patel appeared on behalf of the appellant. On being asked the authorized representative stated that the product was used by tobacco manufacturers and that as per their belief no compensation cess, is payable on to their product.

### **Discussion and findings**

8. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

9. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made during the course of personal hearing and the departmental comments received in the matter. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.





10. Under the GST regime, classification of goods is done using the General Rules of Interpretation of the first schedule of the Customs Tariff Act, 1975, including the section & chapter notes and the General Explanatory Notes to the HSN of the first schedule of CTA, 1975 in terms of Explanation 1 to notification No. 1/2017-Central Tax (Rate), which reads as under:

(iii) "Tariff item", "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 (51 of 1975).

(iv) The rules for the interpretation of 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

11. Before moving on to decide the issue, it would be prudent to reproduce the relevant notification, chapter notes, HSN notes, etc., viz

➤ **(A)**

**[Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017]**

**Rate of Tax (Schedules) for specified goods under CGST — Schedules I to VI**

In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of the central tax of -

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, 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 Schedules.

**Schedule IV - 14%**

| S. No. | Chapter / Heading / Sub-heading / Tariff item | Description of Goods   |
|--------|---|--|
| (1)    | (2)   | (3)  |
| 13.    | 2401  | Unmanufactured tobacco; tobacco refuse [other than tobacco leaves] |

➤ **(B)**

**Notification No. 1/2017-Compensation Cess (Rate), dated 28-6-2017**

**Rates of Compensation Cess for specified goods**

In exercise of the powers conferred by sub-section (2) of section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of cess as specified in column (4) of the Schedule appended to this notification, that shall be levied on the intra-State supplies or inter-State supplies of such goods, the description of which is specified in the corresponding entry in column (3) and 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.

### SCHEDULE

| S. No. | Chapter/<br>Heading/ Sub-<br>heading/ Tariff<br>item | Description of Goods   | Rate of goods &<br>services tax<br>compensation<br>cess |
|--------|--|--|---|
| 5.     | 2401   | Unmanufactured tobacco (without<br>lime tube) - bearing a brand name | 71%   |
| 6.     | 2401   | Unmanufactured tobacco (with<br>lime tube) - bearing a brand name    | 65%   |
| 7.     | 2401 30 00   | Tobacco refuse, bearing a brand<br>name                              | 61%   |

(3) For the purposes of this notification, the phrase "brand name" means brand name or trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.

### Notification No. 2/ 2023-Compensation Cess (Rate)

*In the said notification,  
I. in the Schedule, -*

*(iv) against S. No. 7, for the entry in column (4), the entry "0.32R per unit" shall be substituted;*

*II. In the Explanation, after clause(3), following clause shall be inserted, namely: -*

*"(4)For the purposes of this notification, "R" appearing in column (4) means "retail sale price" as provided in the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017)";*

*2. This notification shall come into force on the 1<sup>st</sup> day of April, 2023.*

### THE FINANCE ACT, 2023

No. 8 of 2023 [31st March, 2023.]

### Goods and Services Tax (Compensation to States) Act

*163. In the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017,—*

*(c) the following Explanation shall be inserted at the end, namely:—*

*'Explanation.—For the purposes of this Schedule,—*

*(i) "retail sale price" means the maximum price at which the concerned goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for such sale:*

*Provided that where the provisions of the Legal Metrology Act, 2009 or the rules made thereunder or any other law for the time being in force require to declare on the package, the retail sale*



price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly;

(ii) where on the package of any concerned goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price;

(iii) where the retail sale price, declared on the package of any concerned goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price;

(iv) where different retail sale prices are declared on different packages for the sale of any concerned goods in packaged form in different areas, each such retail sale price shall be the retail sale prices for the purposes of determination of the rate of cess for the said goods intended to be sold in the area to which the retail sale price relates.'.

➤ **(C)**

2. In this Act, unless the context otherwise requires,—

(72) “manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;

➤ **(D)**

HSN notes of chapter 24 [relevant extracts]

**24.01 - Unmanufactured tobacco; tobacco refuse.**

2401.10 - Tobacco, not stemmed/stripped

2401.20 - Tobacco, partly or wholly stemmed/stripped

2401.30 - Tobacco refuse

This heading covers :

- (1) **Unmanufactured tobacco** in the form of whole plants or leaves in the natural state or as cured or fermented leaves, whole or stemmed/stripped, trimmed or untrimmed, broken or cut (including pieces cut to shape, but not tobacco ready for smoking).

Tobacco leaves, blended, stemmed/stripped and “cased” (“sauced” or “liquored”) with a liquid of appropriate composition mainly in order to prevent mould and drying and also to preserve the flavour are also covered in this heading.

- (2) **Tobacco refuse**, e.g., waste resulting from the manipulation of tobacco leaves, or from the manufacture of tobacco products (stalks, stems, midribs, trimmings, dust, etc.).

12. The applicant has, as is evident, sought a ruling on classification of his supply i.e. ‘kandi ravo’. The process undertaken by the applicant in respect of the said supply is mentioned in detailed in the paragraph above & hence is not being repeated. However, the process can be briefly summed up as follows viz

the applicant procures unprocessed tobacco from the farmer; the tobacco waste obtained thereafter is crushed. This crushed tobacco waste is thereafter mixed with natural clay and water. This mixture is thereafter dried & packed. It is subsequently supplied to tobacco manufacturers in 30-35 kg packs.





13. The applicants contention is that this process undertaken by them on the tobacco waste does not amount to manufacture as defined under Section 2(72) of the CGST Act, 2017. The CGST Act, 2017, defines manufacture as processing of raw material/ inputs in any manner which results in emergence of a new product having a distinct name, character and use.

14. The applicant has further contended that their product, is unfit for consumption; that they do not sell their product with lime tube; that the mixing does not alter the nature of the product & the consumer base remains the same; that it not used with pan-masala, nor is it put in paan; that this is not a product like chewing tobacco with or without lime tube.

15. Chapter 24, tariff item 2401, which deals with unmanufactured tobacco, is reproduced below for ease of reference:

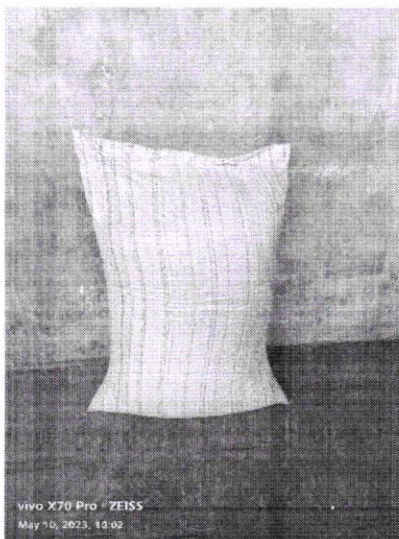
| Tariff Item | Description of goods                              | Unit | Rate of duty |                    |
|-------------|---|------|--------------|--------------------|
|             |   |      | Standard     | Preferential Areas |
| (1)         | (2)   | (3)  | (4)          | (5)                |
| <b>2401</b> | <b>UNMANUFACTURED TOBACCO; TOBACCO REFUSE</b>     |      |              |                    |
| 2401 10     | - Tobacco, not stemmed or stripped :              |      |              |                    |
| 2401 10 10  | --- Flue cured virginia tobacco                   | kg.  | 30%          | -                  |
| 2401 10 20  | --- Sun cured country (natu) tobacco              | kg.  | 30%          | -                  |
| 2401 10 30  | --- Sun cured virginia tobacco                    | kg.  | 30%          | -                  |
| 2401 10 40  | --- Burley tobacco                                | kg.  | 30%          | -                  |
| 2401 10 50  | --- Tobacco for manufacture of biris, not stemmed | kg.  | 30%          | -                  |
| 2401 10 60  | --- Tobacco for manufacture of chewing tobacco    | kg.  | 30%          | -                  |
| 2401 10 70  | --- Tobacco for manufacture of cigar and cheroot  | kg.  | 30%          | -                  |
| 2401 10 80  | --- Tobacco for manufacture of hookah tobacco     | kg.  | 30%          | -                  |
| 2401 10 90  | --- Other   | kg.  | 30%          | -                  |
| 2401 20     | - Tobacco, partly or wholly stemmed or stripped : |      |              |                    |
| 2401 20 10  | --- Flue cured virginia tobacco                   | kg.  | 30%          | -                  |
| 2401 20 20  | --- Sun cured country (natu) tobacco              | kg.  | 30%          | -                  |
| 2401 20 30  | --- Sun cured virginia tobacco                    | kg.  | 30%          | -                  |
| 2401 20 40  | --- Burley tobacco                                | kg.  | 30%          | -                  |
| 2401 20 50  | --- Tobacco for manufacture of biris              | kg.  | 30%          | -                  |
| 2401 20 60  | --- Tobacco for manufacture of chewing tobacco    | kg.  | 30%          | -                  |
| 2401 20 70  | --- Tobacco for manufacture of cigar and cheroot  | kg.  | 30%          | -                  |
| 2401 20 80  | --- Tobacco for manufacture of hookah tobacco     | kg.  | 30%          | -                  |
| 2401 20 90  | --- Other   | kg.  | 30%          | -                  |
| 2401 30 00  | - Tobacco refuse                                  | kg.  | 30%          | -                  |

16. We find that HSN notes for tariff item 2401, reproduced *supra*, covers unmanufactured tobacco in the form of whole plants/leaves in natural state, cured or fermented leaves, whole, stemmed/stripped, trimmed/semi trimmed, broken/cut, blended cased with a liquid of appropriate composition mainly to prevent drying and to preserve the flavour. It also covers **tobacco refuse** eg waste resulting from the manipulation of tobacco leaves, or from the manufacture of



tobacco products [stalks, stems, midribs, trimmings, dust, etc). Though the applicant has undertaken the process of crushing tobacco refuse and thereafter mixing it with natural clay & water, in terms of the HSN notes, we find that it still remains an unmanufactured tobacco. This is more so because even in terms of section 2(72) of the CGST Act, 2017, which defines manufacture, since no new product emerges post the crushing of tobacco refuse & mixing it with natural clay & water, we find it appropriate that the product is classifiable under CTH 2401 as '*unmanufactured tobacco; tobacco refuse*'. We further hold that the supply of applicant of '*kandi ravo*' is classifiable under 24013000.

17. Moving on to the contention of the applicant that no compensation cess is applicable, we find that the applicant has not disclosed the fact that as to whether they are using brand name for their product. The applicant was asked to provide additional submissions on the issue. The applicant, vide his additional submission received on 10.5.2023, has informed the they are not affixing any name or label on the packing, in which the packed goods are sold to their customers in 30-35 kgs bags. To substantiate the submission, the applicant has also provided the photograph viz



The photographs adduced by the applicant depicts that the goods are being sold without any brand name, labelling etc.. In view of the foregoing, since the applicant proposes to supply/supplies the said '*kandi ravo*' to their customers in 30-35 kg bags, without any brand name, labeling, etc, we hold that the applicant would be/is liable to pay GST @ 28% [14 % CGST and 14 % SGST] in terms of notification No. 1/2017-CT(Rate), Sr. No. 13, Schedule IV.





**RULING**

18. In the light of the foregoing, we rule as under:

- The supply of applicant of '*kandi ravo*' is classifiable under 24013000. The applicant is liable to pay GST at 28% [14 % CGST and 14 % SGST] in terms of notification No. 1/2017-CT(Rate), Sr. No. 13 of Schedule IV subject to the condition that goods are cleared without brand name.

(MILIND KAVATKAR)  
MEMBER (SGST)

(AMIT KUMAR MISHRA)  
MEMBER (CGST)

Place: Ahmedabad  
Date: 12 /06/2023

