

**THE AUTHORITY ON ADVANCE RULINGS  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560009**

**Advance Ruling No. KAR ADRG 60/2019**

**Dated: 20<sup>th</sup> September, 2019**

Present:

1. Sri. Harish Dharnia,  
Additional Commissioner of Central Tax . . . . Member (Central Tax)
2. Dr. Ravi Prasad M.P.  
Joint Commissioner of Commercial Taxes . . . . Member (State Tax)

1.	Name and address of the applicant	M/s Jairaj Ispat Limited., Sy. No. 67, 68, B Belagal Village, Kudthini, Bellary- 583115.
2.	GSTIN or User ID	29AAACJ6858PIZN
3.	Date of filing of Form GST ARA-01	18-08-2018
4.	Represented by	Sri Kamalakar , Cost Accountant
5.	Jurisdictional Authority - Centre	Commissioner of Central Tax, Belagavi.
6.	Jurisdictional Authority - State	LGSTO-495, Bellary
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act 2017 & Rs.5,000/- under KGST Act 2017 vide CIN SBIN 18082900090695 dated 13-08-2018.

**ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017**

1. M/s Jairaj Ispat Limited., (hereinafter called "applicant"), Sy. No. 67, 68, B Belagal Village, Kudthini, Bellary- 583115., having GSTIN number 29AAACJ6858PIZN have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 & KGST Act 2017 read with Rule 104 of the CGST Rules, 2017 and KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a limited company and is registered under the Goods and Services Act, 2017. The applicant company has sought advance ruling in respect of the following question:

*Whether the Char-Dolochar / Dolochar (waste emerged during the process of manufacturing Sponge Iron) supplied by him is classifiable under*





(i) *Tariff Item 2621 90 90 of Customs Tariff Act, 1975 and therefore, in view of Entry 30 of Schedule III of Notification 01/2017- Integrated Tax (Rate) dated 28 June 2017 as amended from time to time, attract a levy of 18%.*

Or

(ii) *Tariff Item 2701 20 90 of Customs Tariff Act, 1975 and therefore, in view of Entry 158 of Schedule I of Notification 01/2017- Integrated Tax (Rate) dated 28 June 2017 as amended from time to time, attract a levy of 5%?*

3. The applicant is engaged in process of manufacturing Sponge Iron and in the process Char- Dolochar/Dolochar emerges as waste products

- a. The applicant is engaged in process of manufacturing Sponge Iron and Char Dolochar/Dolochar emerges as waste products.
- b. For manufacturing of Sponge Iron, Iron ore and Coal are fed into Rotary Kiln, wherein reduction of Iron Ore into Sponge Iron takes place with Coal heat. The Iron ore converts into Sponge Iron while travelling into kiln and comes out. When it comes out, it is having the content of magnetic as well as non-magnetic or low magnetic materials. The magnetic material is called Sponge Iron and the non-magnetic/low magnetic material is called Dolochar.
- c. This material is passed through magnetic separator and both the materials are separated. Sponge Iron is the finished product and Dolochar is become waste product emerging out of the process of manufacturing Sponge Iron.
- d. This Dolochar contains both Ferrous content & Fixed Carbon. Ferrous content comes from Iron Ore and Fixed Carbon comes from Coal. The Ferrous & Fixed Carbon percentage content is very less but still is able to generate some heat and hence same are used in brick manufacturer for heating bricks.

4. The applicant submits that -

4.1 the Government of India on the recommendations of the Council, has vide Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 notified the rate of IGST that shall be levied on the inter-State supply of goods and as per the notification, the applicable rate of tax that shall be levied on supply of goods, the description of which is specified in the corresponding entry on column (3) of the Schedules under the 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 Schedules.

4.2 Explanation (iii) of Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 provides that "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.



4.3 the Explanation (iv) provides that the rules of 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, so far as may be, apply to the interpretation of this Notification.

4.4 The product proposed to be supplied would be covered under tariff heading 2621 of the Customs Tariff Act, 1975, which deals with waste emerged from the manufacturing of iron and steel. The relevant entries of the Schedules covered there under are as under:

Schedule III of Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 provides for the list of goods that attract IGST at the rate of 18%. Sl.No. 30 of the Schedule reads as under

30	2621	Other slag and ash, including seaweed ash (kelp); ash and residues from the incineration of municipal waste other than fly ash.
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Schedule I of the Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 provides the list of goods that attract IGST at the rate of 5%. Sl.No.43 of the Notification reads as below:

158	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal.
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4.5 the Dolchar supplied by them falls within the scope of entry 30 of Schedule III and which attracts levy of IGST at the rate of 18%.

5. The applicant submits that from a bare perusal of the Tariff two competing headings for the classification of Dolochar are Chapter Headings 2621 and 2701. The applicant submits that after coal is put to use in the manufacture of Sponge Iron, Dolochar emerges as a waste and they are clearing the same under Chapter Sub Heading 2619 00 90 of the Central Excise Tariff Act, as Dolochar is not fuel manufactured from the Coal to be cleared under chapter heading 2701 of the Central Excise Tariff Act.

5.1 The applicant submits that though the "Dolochar" contains some unburnt coal and same being used by the brick manufacturers as a fuel in heating the bricks, it cannot be considered as a "fuel manufactured from coal" to classify under heading 2701. Dolochar emerges as a waste in the process of manufacturing Sponge Iron. The Hon'ble Supreme Court in the case of Union of India v. Ahmedabad Electricity Company Ltd., reported in 2003 (158) ELT 3 (SC), examining the classification of the similar product, has observed that unburnt or partly burnt pieces of coal in boiler and furnaces having no capacity to produce flame is cinder and same is classifiable under chapter 2621 of the Central Excise Tariff Act, 1985. The applicant submits that the Dolochar also similarly contains partly unburnt pieces and it emerges from the manufacture of Sponge Iron and



doesnot have capacity to produce flame and hence is liable to be classified under HSN 26219000 of the Customs Tariff Act, 1975.

5.2 The applicant further relies on the decision of CESTAT in the case of Chief Commissioner of Central Excise and Service Tax, Hyderabad II v. Reactive Metals of India Pvt. Ltd. reported in 2018 (8) GSTL 194 (Tri-Hyd), wherein it has held that Dolochar emerges as byproduct in the manufacturing of Sponge Iron and not a fuel manufactured from coal and cannot be classified under tariff item 2701 20 90. Tariff item 2619 0090 provide specific description for Dolochar. The relevant portion of the decision is extracted hereunder:

*“ 5.3 The core issue that comes up for appellate decision is whether that impugned by-product char-dolochar, emerging during manufacture of sponge iron will merit classification under CETH 2619 00 90 as maintained by the department or under CETH 2701 20 90 as held by the lower appellate authority.*

*5.4 Perusal of CETH Chapter 27 of the Central Excise Tariff Act, 1985 will indicate that the said Chapter seeks to cover mineral fuels, inter-alia and products of their distillation and bituminous substances.*

*Heading 2701 covers “Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes”*

*The single dash (-) subheading 2701 20 has been put in place for classifying Briquettes, ovoids and similar solid fules manufactured from coal.*

*5.5 Appellants contend that the char-dolochar should be classified under the triple dash (- - -) sub-heading 2701 20 90 as Other Briquettes, ovoids and similar solid fuels manufactured from coal. By any stretch of imagination, we are not able to fathom, how the by-product char-dolochar can firstly come under the category of mineral fuel and then as a briquette or ovoid or similar solid fuel manufactured from coal. Char-dolochar cannot then be classifiable under 2701 20 90. Discernably, the char-dolochar is a by-product emerging during manufacture of sponge iron and not a fuel manufactured out of coal.*

*5.6 On the other hand, heading 2619 seeks to cover slag, dross (other than granulated slag), scaling and other waste from the manufacture of iron or steel. There is no dispute that the impugned by-product is emerging during the manufacture of sponge iron. Hence, applying Rule 3(a) of the General Rules of Interpretation CETH 2619 00 90 is the subheading which provides the most specific description for the impugned goods and hence that will have to be adopted. This is being so, the application of Rule 3(b) of the rules and the reasoning of “essential character” of coal fines by the lower appellate authority is misconceived and cannot sustain, and the impugned orders will therefore have to be set aside, which we hereby do.”*



5.3 The applicant has further relied on the decision of the CESTAT in the case of Bellary Steel & Alloys Ltd. Vs CCE, Belgaum reported in 2006 (199) ELT 808 (Tri-Bang.), wherein it has been held that Coal char/dust/shell arising during manufacture of iron and steel cannot be classified under 2701.00, because of low reduced calorific value.

5.4 The applicant, in view of the above submissions, prays that the advance ruling may be given classifying "Dolochar / Char-dolochar" under Tariff Item 2621 90 90 of the Customs Act 1975 and therefore in view of Entry No. 30 of Schedule III of Notification No.01/2017- Integrated Tax (Rate) dated 28<sup>th</sup> June 2017 (as amended from time to time), attracts tax at 18%.

6. Sri Kamalakar ,Cost Accountant appeared on behalf of the applicant on 03-10-2018 and was heard. He reiterated the same points as provided in the written submissions made.

#### 7. FINDINGS & DISCUSSION:

We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri. Sri Kamalakar, Cost Accountant, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 KGST Act.

7.1 We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri Kamalakar, Cost Accountant appeared during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts.

7.2 The applicant is engaged in the manufacturing of Sponge Iron wherein raw materials used are Iron Ore & Coal. The same are placed into Rotary Kiln where reduction of Iron Ore into Sponge Iron takes place with Coal at a certain range of temperature. The Iron Ore converts into Sponge Iron having the content of magnetic as well as non-magnetic or low magnetic materials. The magnetic material is called Sponge Iron and remaining left out byproduct is of non-magnetic/low magnetic material is called Dolochar.

7.3 Dolochar is partly burnt coal (cinder) emerged during the manufacturing process of Iron ore. The physico-chemical properties of Dolochar reveals that it is a type of semi-coke, has poor wash ability and the fixed carbon content of semi-coke reaches 76.11% and the gross calorific value is 28.10 MJ/kg, both of which are similar to those of traditional sinter coke breeze. Also, semi-coke ash possesses



lower content of SiO<sub>2</sub>, Al<sub>2</sub>O<sub>3</sub>, S and higher content of CaO and MgO, Semi-coke features well-development porous structure and higher reaction activity.

**Chemical Composition**

Elements	%Moist.	%V.M.	%ASH	%F.C.	C.V.K.Cal/Kg
Min.	-	1.00	47.00	28.00	3000
Max.	2.0	3.00	-	-	-

Coal is a natural occurring substance, Volatile matter whereas in Coke is prepared material with few impurities and high Carbon content, and very low Volatile matter content which suits it for a better fuel.

7.4 Char-dolachar should not be classified under sub-heading 2701 20 90 as Other Briquettes, ovoid's and similar solid fuels manufactured from coal. Where in briquette or ovoid or similar solid fuel manufactured from coal only. Hence Char-dolachar is a by-product emerging during manufacture of sponge iron, and not a fuel manufactured from coal. Therefore byproduct dolochar does not fall under serial 43 of Schedule I of the Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, which provides the list of goods that attract IGST at the rate of 5%.

7.5 Chapter 2619 shall covers slag, dross (other than granulated slag), scaling and other waste from the manufacture of iron or steel. Therefore the impugned by-product Char-Dolochar/Dolochar (waste emerged during the process of manufacturing Sponge Iron) supplied by the Applicant is classifiable under Tariff Item 2621 90 90 of Customs Tariff Act, 1975 and therefore, in view of Entry 30 of Schedule III of Notification 01/2017- Integrated Tax (Rate) dated 28 June 2017 as amended from time to time, attract a levy of 18%.

7.6 Hence the said product is covered under Chapter Heading 2621 instead of 2701. The same contention is supported by judgment rendered by the Hon'ble Supreme Court in the case Union of India Vs Ahmedabad Electricity Co. Ltd. reported in 2003 (158) ELT 3 (SC) where in un burnt or partly burnt pieces of coal in boiler and furnaces having no capacity to produce flame is cinder are held to be classifiable under chapter head 26.21 of CETA, 1985.

7.7 Further one more supporting judgment was rendered by Hon'ble CESTAT in the case of Commissioner, Central Excise and Service Tax, Hyderabad II Vs Reactive Metals of India Pvt. Ltd. reported in 2018 (8) GSTL 194 (Tri-Hyd.), wherein it has been held that Dolochar emerges as by product in manufacturing of Sponge Iron and not a fuel manufactured from coal and cannot be classified under tariff item 2701 20 90 but is classifiable under Tariff item 2619 00 90.

7.8 The same contention is supported by Bellary Steel & Alloys Ltd. Vs CCE, Belgaum reported in 2006 (199) ELT 808 (Tri-Bang), wherein it has been held that Coal char/dust/shell arising during manufacture of iron and steel cannot be classified under 2701.00, because of low reduced caloric value.



8. In view of the foregoing, we pass the following

### **RULING**

The Char-Dolochar/Dolochar (waste emerging during the process of manufacturing Sponge Iron) supplied by the Applicant is classifiable under Tariff Item 26190090 of Customs Tariff Act, 1975 and therefore, in view of Entry 28 of Schedule III of Notification 01/2017- Integrated Tax (Rate) dated 28 June 201, attract tax at the rate of 18 percent IGST. The intra-State supply of the same would attract CGST at 9% Entry 28 of Schedule III of Notification 01/2017- Central Tax (Rate) dated 28 June 201 and similarly a KGST at 9 percent.



(Harish Dharnia)  
Member

Place: Bengaluru,

Date: 20.09.2019

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Commissioner of Central Tax, Belagavi.
4. Assistant Commissioner of Commercial Taxes, LGSTO-495, Bellary
5. Office Folder

(Dr. Ravi Prasad.M.P.)  
Member