

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

**GST Bhavan, 1st floor, B-Wing, Mazgaon, Mumbai – 400010.**

**(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

**(1) Ms. P. Vinitha Sekhar, Additional Commissioner of Central Tax, (Member)**

**(2) Mr. A. A. Chahure, Joint Commissioner of State Tax, ( Member)**

GSTIN Number, if any/ User-id		<b>27AAXPR5364F1Z0</b>
Legal Name of Applicant		<b>Vivek V. Ratnaparkhi M/s. Madhurya Chemicals</b>
Registered Address/Address provided while obtaining user id Corresponding Address		Sr. No. 143 – 144, Industrial Estate, Kopergaon, Dist – Ahmednagar, 423601.
Details of application		GST-ARA, Application No. 33 Dated 30.07.2019
Concerned officer		
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	<b>Factory / Manufacturing</b>
B	Description (in brief)	Applicant is engaged in manufacture and marketing of a product called 'Shatamrut Chyavan' which is a supplementary product of molasses and known as compounded animal feed.
Issue/s on which advance ruling required		(i) Classification of goods and/or services or both
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.



**PROCEEDINGS**

**(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by **M/s. Madhurya Chemicals**, the applicant, seeking an advance ruling in respect of the following questions.

- A. Whether the classification of 'Shatamrut Chyavan' falling under TSH 2309 90 10 of Customs Tariff Act, 1975 as adopted to GST attracting 'NIL' rate (0%) of IGST (0%) CGST + (0%) SGST) as per List of Exempted Goods as per Sr. No. 102 of Notification No. 02/2017 - Central Tax (Rate) dated 28.06.2017 is correct or not?**

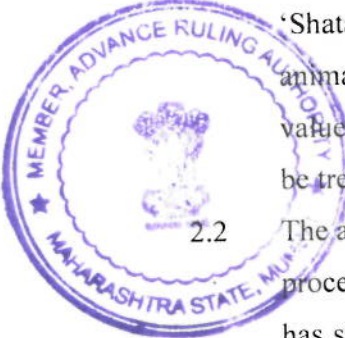
- B. *Whether the goods falling under TSH 2309 90 10 of Customs Tariff Act, 1975 as adopted to GST can be treated as 'waste of sugar manufacture, whether or not in the form of pellets under heading 2303' attracting 5% of IGST (2.5% CGST + 2.5% SGST) as per Schedule I (Sr. No. 104) of Notification No. 01/2017 - Central Tax (Rate) dated 28.06.2017 or not?*

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to "GST Act" would mean CGST Act and MGST Act.

## 2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant is as under:-

- 2.1 M/s Madhurya Chemical (hereinafter referred as 'applicant') is engaged in supply of 'Shatamrut Chyavan' (hereinafter referred to, as the subject product) which is a complete animal feed supplement and is used as a supplementary product to increase the nutritional value of molasses. In other words, it is a nutrition supplement to the cattle feed but cannot be treated as cattle feed in isolation.
- 2.2 The applicant has furnished a detailed plant drawing cum flow chart of the manufacturing process to understand how the subject product is produced out of sugarcane molasses and has stated that to manufacture the product, other than molasses, 15 other ingredients are also mixed in the molasses (input) to increase the nutrition value of the molasses.
- 2.3 Applicant has classified the subject product, till the date of application, under Chapter 2309 90 10, attracting 'NIL' rate of GST.
- 2.4 Notification No. 2/2017 – C.T. (Rate) dated 28.06.2017, as amended, specifies GST rate schedules and classification of subject product under Schedule. Schedules applicable to the applicant's goods are as follows:



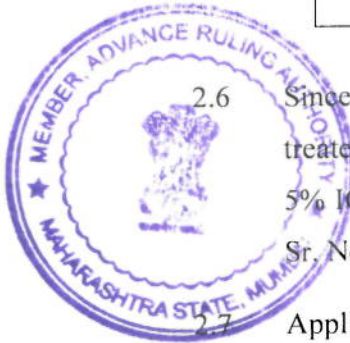
List of Exempted Goods as per Notification No. 2/2017 – C. T. (Rate)	Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods	CGST / SGST Rate	IGST Rate
	102	2309	Aquatic feed including shrimp feed and prawn feed, poultry feed and	NIL	NIL



			cattle feed, including grass hay and straw, supplement & husk of pulses, concentrates & additives, Wheat Bran & de-oiled cake.)		
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2.5 Notification No. 1/2017 – C.T.(Rate) dated 28.06.2017, as amended, specifies CGST rate schedules and classification of abovementioned product under Schedule. The Schedule applicable to the subject product as per the ‘specification of product’ is as follows:

Schedule No.	Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of goods	CGST / SGST Rate	IGST Rate
I	104	2303	Residues of starch manufacture and similar residues, beet – pulp, baggase and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets.	2.5%	5%



2.6

Since the subject product is used as a nutrition supplement to the cattle feed but cannot be treated as cattle feed in isolation it should be classified under Chapter No. 2303 attracting 5% IGST (2.5% CGST and SGST each). Hence applicant can supply the product as per Sr. No. 104 of Schedule I of Notification No. 1/2017 – C.T. (Rate) dated 28.06.2017.

2.7

Applicant submits that Sr. No. 102 of Notification No. 2/2017 C.T.(Rate) dated 28.6.2017 is solely for ‘2302,2304,2305,2306,2308 and 2309’ as *Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass hay and straw, supplement and husk of pulses, concentrates and additives, Wheat Bran and de – oiled cake*) which attracts 0% GST whereas, Sr. No. 104 of Notification No. 1/2017 C.T. (Rate) dated 28.6.2017 (Schedule I) is solely for 2303 as *Residues of starch manufacture and similar residues, beet – pulp, baggase and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets* which attracts 5% IGST (2.5% CGST + 2.5% SGST). Hence, goods covered under ‘2302, 2304, 2305, 2306, 2308 and 2309’ and supplied as cattle feed, shall attract 0% GST.

2.8

Applicant also submits that the very purpose of Sr. No. 104 (Schedule I) is to set aside the exemption (Sr. No. 102) under the Notification No. 2/2017 C.T. (Rate) dated 28.6.2017

attracting the 'NIL' rate of GST. Hence, applicant has a belief that their product will attract 5% GST under Sr. No. 104 of Notification No. 1/2017 C.T. (Rate) dated 28.6.2017 (Sch. I).

- 2.9 'Shatamrut Chyavan' is attracting GST at 5% because the relevant entry of Sr. No. 102 of Notification No. 2/2017 C.T. (Rate) dated 28.6.2017 is a general entry for cattle feed having no nutritional value/base to cover subject product manufactured by the applicant.
- 2.10 Vide letter dated 22.01.2020, the applicant made further submissions with respect to the manufacturing process involved in making the impugned product and the proportion of raw materials/ingredients used. They have also stated that, to avoid fermentation of molasses, anti-fermenting agents are also added along with preservatives.

**03. CONTENTION – AS PER THE CONCERNED OFFICER**

The submissions made by the applicant is as under:-

- 3.1 The taxpayer is engaged in supply of 'shatamrut chyavan' which is a complete animal feed supplement used in cattle & remnants to improve milk & milk fat & resistant to diseases and the classification of the said product under Chapter No. 2309 90 10 of Customs Tariff Act, 1975 as adopted to GST attracting 'Nil' rate of GST as per Sr. No. 102 of Notification No. 02/2017 – C.T. (Rate) dated 28.06.2017 is correct.
- 3.2 Circular No. 80/54/2018 GST dated 31.12.2018 clearly describes that while deciding the classification of product claimed as animal feed supplements, it may be necessary to ensure that the said animal feed supplement is ordinarily or commonly known to the trade as products for a specific use in animal feeding. It covers only such products which in the form supplied are capable of specific use as feed supplement for animal & not capable of any general use. As the product brochure, leaflet & online company product advertisement shows that it is a complete food supplement used for cattle feed only & there is no other use of the product and also because the product under MVAT regime was claimed under compounded animal feed (Sch. Entry A-4) as tax free, therefore the said product must be classified under Chapter No. 2309 90 10.
- 3.3 Goods falling under Chapter No. 2309 90 10 cannot be treated as 'waste of sugar manufacture in the form of pellets under heading 2303 attracting 5% of GST as per Schedule I (Sr. No. 104) of Notification No. 01/2017–C.T. (Rate) dated 28.06.2017. Applicant's interpretation that the end use of the product is nutrition supplement to the cattle feed but cannot be treated as cattle feed in isolation & hence to be classified under Chapter No. 2303 attracting 5% GST is not correct.





- 3.4 Chapter No. 2303 includes residues of starch manufacture and similar residues, beet pulp, bagasse and other waste of sugar manufacture, brewing or distilling drugs and waste, whether or not in the form of pellets. Applicant's interpretation that the basic raw material of their product is molasses (60% of total ingredient as per chemical formula that submitted by applicant) & classified under Chapter No. 2303 2000 i.e. other waste of sugar is wrong.
- 3.4.1 During the manufacturing of sugar from sugarcane in sugarcane factory several valuable by products like molasses, bagasse, filter press cake, ash etc. are produced along with sugar. Among these byproducts molasses & bagasse are more valuable raw materials used in different manufacturing industries. In the process of manufacturing of sugar, bagasse emerges as residue / waste of sugarcane which is neither a manufactured product nor final product of sugarcane industry & therefore classified under subheading 2303 20 00, as bagasse & other waste of sugar manufacturing. In sugar manufacturing molasses is an intermediary product, or by product. It is not waste, as waste is never manufactured & it only emerges in the manufacture of final product. Hence Molasses attracts specific rate of duty under Tariff Heading 1703 of 1000 of the GST Tariff. Though the major residual mixture of the subject product is molasses, it does not fall under Chapter No. 2309 90 10 & therefore not treated as waste of sugar manufacture under Heading 2303.



#### **HEARING**

Preliminary hearing in the matter was held on 17.12.2019. Shri Devendra Aathavle Advocate appeared and requested for admission of their application. Jurisdictional Officer Shri Abhijit Padekar, S.T.O. (C-012) Ahmednagar also appeared and made written submissions.

The application was admitted and called for final hearing on 22.01.2020. Shri Devendra Aathavle Advocate appeared, made oral and written submissions. The Jurisdictional Officer Shri Abhijit Padekar, S.T.O. (C-012) Ahmednagar also appeared and made written submissions.

#### **05. DISCUSSIONS AND FINDINGS**

- 5.1 We have gone through the facts of the case, documents on record and submissions made by both, the applicant as well as the jurisdictional officer. Applicant has raised the issue of classification of their product namely, 'Shatamrut Chyavan'.
- 5.2 The subject product is manufactured out of sugarcane molasses, which is the major ingredient. Applicant is also adding other ingredients along with sugarcane molasses in the subject product, to increase the nutritional value of the sugarcane molasses. Applicant has been classifying the impugned product under Chapter No. TSH 2309 90 10, attracting

'NIL' rate of GST and now wants to classify the same under Chapter 2303 of the Customs Tariff Act, 1975 as adopted by GST Tariff. The reason put forth by the applicant to classify the subject product under Chapter Heading 2303 is that the said product is only a nutritional supplement to the cattle feed and cannot be considered as cattle feed in isolation.

5.3 Chapter 2303 of the Customs Tariff Act, 1975 as adopted by GST Tariff covers "Residues and waste from the sugar industries;

5.3.1 General Note to Chapter 23 is as follows:- *"This Chapter covers the various residues and wastes derived from vegetable materials used by food-preparing industries, and also certain products of animal origin. The main use of these products is as animal feeding stuffs, either alone or mixed with other materials, although some of them are fit for human consumption".....*

5.3.2 Note 1 to Chapter 23 states that *"Heading 23.09 includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, other than vegetable waste, vegetable residues and by-products of such processing".*

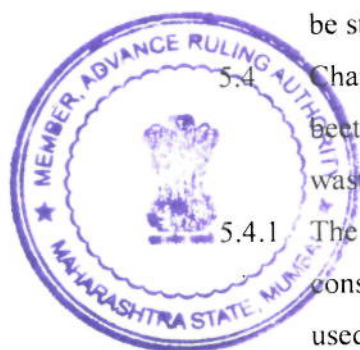
5.3.3 Explanatory Notes to the Harmonized System states that *Chapter Heading 23.09 covers sweetened forage and prepared animal feeding stuffs consisting of a mixture of several nutrients designed: (1) to provide the animal with a rational and balance daily diet (complete feed); (2) to achieve a suitable daily diet by supplementing the basic farm produced feed with organic or inorganic substances (supplementary feed) and (3) for use in making complete or supplementary feeds. The Explanatory Notes further states that "The Heading includes products of a kind used in animal feeding, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material".*

5.3.4 The Explanatory Notes at (I) under Chapter 23.09 states that *"Sweetened Forage is a mixture of molasses or other similar sweetening substances (generally more than 10% by weight), with one or more other nutrients. It is used mainly for feeding cattle, sheep, horses or pigs. Besides being highly nutritive, molasses enhances the palatability of foodstuffs and thus extends the use of products of low nutritive value such as straw, cereal husks, linseed flakes and fruit pomace which the animals would otherwise be reluctant to accept. As a rule, these sweetened preparations are fed directly to the animals. However, some of them combine molasses with highly nutritive foods, such as wheat bran, palm kernel or copra, oil-cake, and are used to make complete feeds or supplementary feeds.*





- 5.3.5 The subject product is a complete animal feed supplement manufactured out of molasses mixed with 15 other ingredients to increase the nutrition value of the feed supplement. From the submissions made by the applicant and view of the above Chapter Notes, we find that the subject product is nothing but prepared animal feed and therefore the same would fall under the said Chapter Heading 23.09.
- 5.3.6 We agree with the jurisdictional officer that the classification of the subject product under TSH 2309 90 10 of Customs Tariff Act, 1975 is correct. We also agree with the submissions of the jurisdictional officer that the subject product is capable of specific use as food supplement for animals & not capable of any general use. Even though the product is not used in isolation as an animal feed, the end use of product is only cattle feed. Further, the subject product was claimed to be compounded animal feed under MVAT regime also.
- 5.3.7 Sr. No. 102 of Notification No. 2/2017 C.T. (Rate) dated 28.6.2017 says that *Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass hay and straw, supplement and husk of pulses, concentrates and additives, Wheat Bran and de-oiled cake* falling under heading nos. '2301, 2302, 2304, 2305, 2306, 2308 and 2309' are subject to NIL rate of duty.
- 5.3.8 In view of the above, we find that the subject product falls under Chapter 23.09 and will be subject to NIL rate of duty.
- 5.4 Chapter Heading 23.03 deals with "Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets.
- 5.4.1 The Explanatory Notes at (C) under Chapter 23.03 says that "Bagasse is a residue consisting of the fibrous portion of the sugar cane after the juice has been extracted. It is used in the paper making industry and in the preparation of animal food. At (D) under the same Chapter Heading 23.03, the Explanatory Notes state that "**Other waste products of sugar manufacture** covered by this heading include defecation scum, filter press residues, etc". The Explanatory Notes also mentions that the heading 23.03 does not include Molasses resulting from the extraction or refining of sugar.
- 5.4.2 Thus Chapter Heading 23.03 would only cover residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste.
- 5.5 From the above discussions we observed that, while Chapter 23.03 covers only residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, Chapter Heading 23.09 specifically covers preparations of a kind used in animal feeding.



- 5.6 In view of the above, we hold that the subject product has been rightly classified by the applicant under Chapter Heading 23.09 and the said product, falling under TSH 2309 90 10 of Customs Tariff Act, 1975 as adopted to GST, attracts 'NIL' rate as per Sr. No. 102 of Notification No. 02/2017 - Central Tax (Rate) dated 28.06.2017.
- 5.7 The second question raised by the applicant is "whether the goods falling under TSH 2309 90 10 of Customs Tariff Act, 1975 as adopted to GST can be treated as '*waste of sugar manufacture, whether or not in the form of pellets under heading 2303*' attracting 5% GST per Schedule I, Sr. No. 104 of Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 or not.
- 5.7.1 The jurisdictional officer has contended that goods falling under TSH 2309 90 10 of Customs Tariff Act, 1975 as adopted by GST cannot be treated as 'waste of sugar manufacture in the form of pellets under heading 2303 attracting 5% **GST** under Sr. No. 104 of Notification No. 01/2017 - C.T. (Rate) dated 28.06.2017 and has made arguments and submissions accordingly.
- 5.7.2 We find that the subject question number 2 is general in nature and does not appear to be connected to a particular product being manufactured by the applicant or proposed to be manufactured. Thus the said question is not relation to supply of goods or services or both, being undertaken or proposed to be undertaken by the applicant. Also, the said question is not on matters or questions specified in subsection 2 of Section 97, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. Hence we refrain from answering the second question.
06. In view of the extensive deliberations as held hereinabove, we pass an order as follows :

### ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 33/2019-20/B-

40 Mumbai, dt.

18/03/2020

For reasons as discussed in the body of the order, the questions are answered thus –

**Question A :-** Whether the classification of 'Shatamrut Chyavan' falling under TSH 2309 90 10 of Customs Tariff Act, 1975 as adopted to GST attracting 'NIL' rate (0%) of IGST (0%) CGST + (0%) SGST) as per List of Exempted Goods as per Sr. No. 102 of Notification No. 02/2017 - Central Tax (Rate) dated 28.06.2017 is correct or not?



**Answer :-** Answered in the affirmative.

**Question B:-** Whether the goods falling under TSH 2309 90 10 of Customs Tariff Act, 1975 as adopted to GST can be treated as '**waste of sugar manufacture, whether or not in the form of pellets under heading 2303**' attracting 5% of IGST (2.5% CGST + 2.5% SGST) as per Schedule I (Sr. No. 104) of Notification No. 01/2017 - Central Tax (Rate) dated 28.06.2017 or not?

**Answer :-** Not answered, in view of discussions made above.



sd  
A. A. CHAHURE  
(MEMBER)

sd  
P VINITHA SEKHAR  
(MEMBER)

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website

**CERTIFIED TRUE COPY**

sd  
MEMBER

**ADVANCE RULING AUTHORITY  
MAHARASHTRA STATE, MUMBAI**

**Note :-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai – 400021.