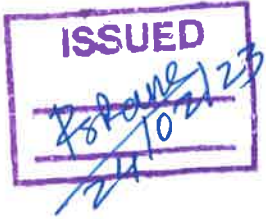


GOA AUTHORITY FOR ADVANCE RULING

[Constituted under Section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and Services Tax Rules, 2017]



BEFORE THE BENCH OF

Smt. Sarita S. Gadgil, Additional Commissioner of SGST, Goa.
Shri. Basant Kumar, Additional Commissioner of CGST, Goa.

Advance Ruling No. GOA/GAAR/03 of 2022-23/ 3473

Name of the Applicant	Melker TTI Biofuels Ltd
Address	Plot No.39, Pilerne Industrial Estate, Pilerne, Bardez Goa. 403114
GSTIN	30AAICS0433J1ZP
Date of Application	10.11.2022
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	(a) Is GST applicable for un-denatured ENA, De-Natured ENA and Rectified Spirit or state sales tax (b) If it comes under GST what is the GST taxation slab.
Date of Hearing	25.01.2023
Persons Present for Hearing	Shri. Sharad dalmia, Authorized Representative of the Applicant.

PROCEEDINGS

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

The present application has been filed under section 97 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the '**SGST Act**' and '**CGST Act**') by **Melker TTI Biofuels Ltd, Plot No.39, Pilerne Industrial Estate, Pilerne, Bardez Goa. 403114**, Goa seeking an Advance Ruling in respect of the following questions:



- a) Classification of any goods or services or both.
- b) Determination of the liability to pay tax on any goods or services or both.

BRIEF FACTS

Applicants Background:

Melker TTI Biofuels Ltd, Plot No.39, Pilerne Industrial Estate, Pilerne, Bardez Goa. 403114 and hold GSTIN 30AAICS0433J1ZP. The Applicant is manufacturers of alcohol of strength of over 90%. The applicant manufactures RS, ENA and denatured ethyl Alcohol as well as DDGS as a by-product in respect of which the applicant is seeking through the advance ruling for the purpose of determination of the following question:

- (b) Is GST applicable for un-denatured ENA, De-Natured ENA and Rectified Spirit or state sales tax.
- (b) If it comes under GST what is the GST taxation slab.

INTERPRETATION OF LAW AND/OR FACTS BY APPLICANT

In light of the above said judgement and the various judgements referred it is to our understanding that since ENA is alcohol of strength 96% and hence industrial alcohol and not fit for human consumption GST would be applicable on the sale of ENA even if it is un-denatured.

PERSONAL HEARING

Shri. Sharad dalmia, duly authorized representative appeared for personal hearing on 25/01/2023 before this authority and reiterated the points deliberated in written submissions made along with application.

FINDINGS AND DISCUSSIONS

The applicant manufacture RS, ENA and denatured ethyl Alcohol as well as DDGS as a by product.

Rectified spirit, also know as 'neutral spirits'. Rectified alcohol, or ethyl alcohol of agricultural origin is highly concentrated ethanol that has been purified by



means of repeated distillation, a process that is called rectification.

Extra Neutral Alcohol (ENA) is a colorless alcohol, which has a neutral smell and taste. It is used in the production of potable alcohol and as a solvent and reactant in the pharmaceutical industry and as carrier of flavor and fragrances.

The ENA have COSMOS & ECOCERT certifications for the extra Neutral Alcohol for use in the Cosmetic and Personal Care Industry. Therefore Rectified spirit and Extra Neutral Alcohol (ENA) are non-denatured spirits that are predominantly used as raw material by liquor manufacturers in manufacturing liquor for human consumption. It is to be noted, that these two spirits are cleared in concentrated form having a high content of alcohol, and cannot be consumed as such without further processing.

Therefore, manufactured Rectified spirit and Extra Neutral Alcohol (ENA), which are non-denatured spirits that are predominantly used as raw materials by liquor manufacturers in manufacturing liquor for human consumption. These two spirits are in concentrated form having a high content of alcohol and cannot be consumed as such without further processing.

ENA typically contains 95% alcohol by volume and as such is not fit for human consumption. ENA that is used for the 'manufacture of alcoholic liquor is not supply for the purpose of human consumption as it is not consumed directly, but goes through a process of manufacture.

The GST Rate Schedule notified through Notification No.1/2017 – Integrated Tax (Rate) Entry No.25 of Schedule-III prescribed a rate of 18% for ethyl Alcohol and other spirits, denatured, of any strength covered under Chapter Heading 2207. This entry will cover within its ambit only those spirits which are denatured and so Rectified spirit and ENA will not be covered under this entry.

Under article 246A (1) read with 366 (12A), GST cannot be levied on the supply of "alcoholic liquor for human consumption". Therefore, Rectified spirit and ENA will not amount to alcoholic liquor for human consumption.



thereby falling outside the ambit of Entry 54 of List II of the Seventh Schedule to the Constitution of India.

Consequently, Rectified spirit and ENA will be taxable supplies under GST and since the GST Rate Schedule has not provided for a specific entry, the same would fall within the ambit of the residuary entry, attracting a rate of 18%.

1. **Un-denatured ENA** 18% AS PER Notification No.1/2017 – Integrated Tax (Rate) { Entry No.25 of Schedule-III of the Notification No.1/2017-State Tax (Rate), dated 30.06.2017 and 1/2017-CT (Rate) dated 28.06.2018.}
2. **Denatured ENA and rectified spirit** 18% GST – Residual Entry.

This Authority has gone through the above submissions made by the applicant. The advance ruling sought in the application has been examined in details and found that the issue of Taxation of Rectified Spirit/ ENA under GST was forming part of the various GST Council Meetings, however it has not reached any conclusion. In 43rd GST Council Meeting held on 28/05/2021, the issue was discussed in details but since members were having different opinions on the matter, hon'ble Chairperson stated that the view of the comments of the state on the issue, the agenda may be deferred.

Since the issue raised by the applicant is pending before GST Council for a decision, Advance Ruling on the issue raised in the application cannot be given.

Application is disposed accordingly.


(Basant Kumar)
Member

Dated: - 23/02/2023.
Place: - Panaji – Goa




(Sarita S. Gadgil)
Member

To,

Melker TTI Biofuels Ltd, Plot No.39,
Pilerne Industrial Estate, Pilerne,
Bardez Goa. 403114.

Copy to:

1. The State Tax Officer, Mapusa Ward, Mapusa-Goa;
2. The Dy. Commissioner of State Tax, Mapusa Ward,
3. The Commissioner of State GST, Panaji – Goa.
4. The Commissioner of Central GST, Panaji – Goa.
5. Office file.
6. Guard file.



