

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH**Goods and Service Tax****O/o THE COMMISSIONER, COMMERCIAL TAX,****MOTI BUNGALOW,****MAHATMA GANDHI MARG, INDORE (M.P.) - 452007****e-mail :aar@mptax.mp.gov.in Phone : 0731- 2437315 fax. no. : 0731-2536229****PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017****Members Present**

1. **Manoj Kumar Choubey**
Joint Commissioner,
Office of the Joint Commissioner of Commercial Tax, Indore Division-1
2. **Virendra Kumar Jain**
Joint Commissioner,
Office of the Commissioner,CGST and Central Excise, Indore

GSTIN Number. If any/User-id	23AABCV1297N3ZY
Name and address of the applicant	M/s Vippy Industries Ltd., Plot Number 112, Industrial Area No.1, Dewas (MP) 455001
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	a)Classification of any goods or services or both, b) Applicability of a Notification issued under the provisions of this Act.
Present on behalf of applicant	Shree C.L.Dangi, and Shri Ravi Shankar Raichoudhary, Advocate
Case Number	17/2019
Order dated	Rectification order dated
Order Number	Rectification order of order No.01/2020
<i>Rectification Order date</i>	<i>28/2/2020</i>

Proceedings**(Under Sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and Madhya Pradesh Goods and Service Tax Act, 2017)****Rectified
(Amended)****Order of No. 01/2020 dated 02.01.2020 under Section 102
Central Goods and Service Tax Act, 2017 and Madhya Pradesh Goods and
Service Tax Act, 2017)**

1. M/s Vippy Industries Ltd., [Plot No. 112], Industrial Area, A.B. Road, Dewas (hereinafter referred to as the applicant) [will manufacture finished products viz. "Preparation of a kind used in Animal Feeding – Bio Processed Meal" which will be used for animal feeding only]. The Applicant is having a GST registration with 23AABCV1297N3ZY effected from 30.03.2019.

2. The applicant has sought advance Ruling on the confirmation of classification of the product "Preparation of a kind used in Animal Feeding – Bio Processed Meal" falling under HS Code 23099090. The applicant has provided the following process for manufacture of said product. The advance Ruling in this matter was pronounced on 02.01.2020. The order, however, suffers from certain errors, as pointed out by the applicant vide their application dated 28/29.01.2020 and dated 10.02.2020, that are apparent on the face of the records. They need to be rectified. The Authority therefore proceeds to examine the facts as pointed by the applicant

3. Brief Facts of the Case:

3.1 Soybean meal (raw material) with 12% moisture is conveyed to buffer tank after removal of metal impurities. All raw materials after measurement are sent into batch mixer for mixing, and then mix with liquid bacteria/Enzymes in the continuous mixer through a variable frequency screw conveyor which regulates its flow rate. Moisture content is adjusted to around 40% -50% in the continuous mixer. Finally Soybean meal after inoculation and mixing is delivered to fermentation section.

3.2 After Inoculation Soybean meal through conveying equipment is transported to fermentation bed & kept there for 60-72 hours. The thickness of the material deck is designed to be within 75-150mm range and may be adjusted according to actual circumstances. The processing capacity of fermentation bed will also be adjusted by changing the thickness of material layer. During the fermentation process agitation of material may be needed according to the process design. After the fermentation process the material is discharged and collected by a belt conveyor to the drying section. In the conveying process, some material may be fall off the conveyor and needs to be cleaned manually.

3.3 The fermented Soybean meal is then pre-dried by a tube bundle dryer to around 20-25% moisture content and then enters live drying tower for further drying at relatively low temperature. The retention time inside the drying tower can be adjusted by adjusting the thickness of the material deck in each tray of the drying tower. The hot air in the drying tower is utilized repeated in each layer and then achieves energy efficiency and maintains desirable colour of the finished product.

3.4 The dried meal is then transported through cold air transfer to pulveriser for grinding to 1mm size and is finally transported through pneumatic transfer to finished product buffer tank and then for measurement and packing.



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3.5 The end product will be sold for use as Aquatic feed including shrimp feed, poultry feed, Cattle feed & Pig feed in domestic and Export market. This product will be used for consumption of Aquatic feed including shrimp feed, poultry feed, Cattle feed & Pig feed etc.

3.6 Bacteria Enzymes are mixed in to soyabean meal & left for fermentation for 60 to 72 hours (approx.) During this time following changes takes place in the meal.

S.No.	Properties	Soya bean meal	Bio-Processed Soya Bean meal
1	Anti nutritional factor. a. Glycinin b. B.Conglycinin	4-6 2 -3	< 0.5 < 0.2
2	P.H.	6.5-7	4.5 -5.0
3	Lactic Acid	0.03 -0.05	3 -4

3.7 The Applicant has provided the following points in support of his claim that the their end product will be used only Animal Feed:

- (i) The raw material for the preparation of Bio-Processed meal is soya bean meal feed grade falling under HS code 23040030.
- (ii) The protein content of the feed grade is less that 50% and not fit for human consumption. During the manufacturing process soya meal undergoes through fermentation process.
- (iii) The process uses biotechnology to convert protein structure to smaller molecular weight to increase efficiency digestion and absorption.
- (iv) It also breaks down and reduce antigens or anti-nutrient substance due to fermentation.
- (v) It is a high quality soya protein source of animal such as your animals in Aquatic feed including shrimp feed, poultry feed, Cattle feed & Pig feed.
- (vi) It focuses on the use of protein sources in animal feed by replacing fish meal, skim milk, milk replacer.
- (vii) Fermented soya protein can be use in the various kind of feeds, such as Poultry, Aqua, cattle, Pig feed etc.

3.8 The appellant has cited that Notification 02/2017-CT(Rate) dated 28.06.17 where it is mentioned that Aquatic feed including shrimp feed and prawn feed, poultry feed, cattle feed & Pig feed , including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake (other than rice bran) falling under heading 2309 of GST Tariff attracts nil rate of GST.

3.9 The Appellant has also cited that explanatory Note to Heading 23.09 applies, *mutatis mutandis*, to this heading.

23.09



Preparations of a kind used in animal

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feeding.

- 2309.10 - Dog or cat food, put up for retail sale
2309.90 - Other

This heading 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 balanced 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*); or
- (3) for use in making complete or supplementary feeds.

As per The Explanatory Note the product "preparation of a kind used in animal feeding – bio processed meal (SOYPRO) is classifiable under sub heading 23099090.

3.10 The Appellant has cited the following case laws in support of their case:

- (a) As per decision of AAR in the case of National Plastic Industries Ltd. reported in 2018(16)GSTI 287 it has been decided that classification to be decided as per terms of headings, sub headings and tariff item and the relevant section / chapter notes / sub notes in terms of interpretative rules to the Customs Tariff.
- (b) As per decision of AAR – GST in the case of Maheshwari Stones Supplying Company reported in 2018(13) GSTL 345 Heading which provide more specific description to be preferred over heading providing general description.
- (c) As per decision of AAR – GST in the case of C.P.R. Mill reported in 2018(17) GSTL 146 cattle feed has been classified under 2309 of tariff and exempted vide Sr.No. 102 of Notification 02/2017 CT (Rate).
- (d) As per decision of AAR – GST in the case of SRIVET HATCHERIES reported in 2018 (19) G.S.T.L. 140 (A.A.R. - GST) and held that Biofos mono calcium phosphate/Di-calcium phosphate - Animal/ Poultry/Aqua feed supplement - Exemption under GST - Admissibility - Aforesaid product classifiable under Tariff Item 2309 90 90 of Customs Tariff Act, 1975, is a feed grade mono calcium phosphate and being marketed accordingly - Thus it is fully covered under Entry 102 of Notification No. 2/2017-C.T. (Rate) - Exemption admissible.

4. Question raised before the Authority:-

The following questions have been posted before the Authority:

Whether the product "preparation of a kind used in Animal Feeding – Bio Processed Meal" will fall under HS Code 23099090 and applicable rate of GST on said product shall be NIL as per Notification 02/2017 – CT (Rate) dated 28.06.2017?

5. Officer's View Point:

The Superintendent (Tech.), CGST & Central Excise, Division Dewas vide his letter F.No. IV(16)100/Misc./Tech/CGST/17-18/Pt.II/1409 dated 07.11.2019, has forwarded department's view point in respect of the issue raised in the application. It is submitted in the



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report that the statement of relevant facts mentioned in the application by the party appears to be correct.

6. **Record of Personal Hearing** : Shri C L Dangi, Advocate and Shri Ravi Shankar Choudhary Advocate of the applicant, has appeared for Personal Hearing and reiterated the points mentioned in their written submission dated 26.07.2019, 14.10.2019 and 18.11.2019.

7. **Discussion and finding portion in the order dated 02.01.2020 reads as under:-**

"7.1 We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing. We find that the issue raised in the application is squarely covered under Section 97(2)(a)/(b) of the GST Act, 2017 being a matter related to classification of the product, being produced by the applicant and applicability of a cited Notification. The applicant have complied with all the requirements for filing this application as laid down under the law. We therefore admit the application for consideration on merits.

7.2 Going through the application of the party, it is found that the applicant has sought confirmation of classification of their product to whom they term it "Preparation of a kind used in Animal Feeding – Bio Processed Meal" falling under HS Code 23099090. Further it is noted that the main raw material for the said preparation is 'Meal of Soyabean'.

Further, the applicant has provided the following reasoning to establish that the said product is meant for Animal Feeding.

"The protein content of the feed grad is less than 50% and not fit for human consumption. During the manufacturing process soya meal undergoes through fermentation process. The process uses biotechnology to convert protein structure to smaller molecular weight to increase efficiency digestion and absorption. It also breaks down and reduce antigens or anti-nutrient substance due to fermentation."

7.3 We further notice that the applicant vide their letter dated 18.11.2019 has submitted an additional reply acknowledging a typographical error in para 15F of their advance reply application submitting therein the following :

"In continuation of our application dated 25.07.2019 and hearing on 14.10.2019 for classifying our products under heading 23099090 'preparation of a kind used in animal feeding – bio processed meal' the applicant wish to further inform that in place of statement as mentioned in 15(f) of our advance Ruling Application "The protein content of the feed grade is less than 50% and not fit for human consumption." should be read as "The protein content of the feed grade is up to 52%"

7.4 It is noted that the applicant is renowned manufacturer of soya based products used for consumption of general public namely soya flakes / Grits, Soya Flour, Soya lecithin, Soya Protein / TVP etc. They are also engaged in manufacturing various products meant for animal feeding namely GMO Soyabean meal, non GMO Soya Grits etc. They are also manufacturing soya products for industrial use. The product meant for industrial use and for consumption of general public are leviable to various rates of GST whereas the applicant has claimed the chapter heading of 23099090 which is exclusively meant for animal feed attracts nil rate of duty. In such a situation a critical analysis is required to establish that the said product is meant only for animal feed.

7.5 The applicant has claimed the classification under HSN code 23099090 which is exclusively meant for animal feed and attracts nil rate of GST. The chapter note 2309 reads as under :

"Note : heading 2309 includes product 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



characteristic of the original material, other than vegetable waste, vegetable residues and by products of the such processing. Further the tariff heading 23099090 is detailed as under :

23.09	Preparations of a kind used in animal feeding.
2309.10	Dog or cat food, put up for retail sale
2309.90	Others
23099010	Compounded animal feed
23099020	Concentrates for compound animal feed
	Feed for fish (prawn etc.)
23099031	Prawn and shrimps feed
23099032	Fish meal in powdered form
23099039	Others
23099090	Others

Further, the notification 02/2017-CT(Rate) dated 28.06.2017 and corresponding notification issued under MPGST Act has exempted intra-state supplies of goods, the description of which is specified in column (3) of the Schedule appended to the said notification, falling under the tariff item, subheading, heading or Chapter, as the case may be, as specified in the corresponding entry:

Sl.No.	Chapter heading/ sub heading / tariff item	Description of goods
102.	2302, 2304, 2305, 2306, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake

7.6 From above it is derived that the Chapter heading 23099090 is exclusively meant for animal feed. It is noted that the applicant has not provided any evidence to prove that the said product "Bio Processed Meal" is meant for animal feed. We find that the applicant is renowned manufacturer of soya based products, both for general public, for animal feed as well as for industrial use. In such a situation, a critical analysis is required to establish that the said product is meant only for animal feed.

We further noticed that in their advance ruling application, they have mentioned at point 15(f) that :
"The protein content of the feed grade is less than 50% and not fit for human consumption"

We further noticed that vide letter dated 18.11.19 they have submitted fresh plea that above clause in their advance ruling application should be read as under :

"The Protein content is up to 52%"

From above, it is clear that they have also removed the line **"and not fit for human consumption"**

7.7 From the above discussion, it is clear to us that there are not evidences in support of the applicant's claim that the said product falls under chapter heading 23099090. The applicants withdrawn of the comment that "and not fit for human consumption", further substantiates our contention.

7.8 As the applicant has failed to submit any evidence to support their claim of chapter heading 23099090 for their product, and therefore the applicant is not entitled to claim NIL rate of duty under as per Notification 2/2017 -CT (Rate) dated 28.06.2017 and corresponding notification issued under MPGST Act. We hold accordingly."

8. RULLING of earlier order dated 02.01.2020

"(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

1. The product **"Preparation of a kind used in Animal Feeding – Bio Processed Meal"** is not entitled to classify under HS code – 23099090 and therefore not entitled for the benefit of Notification No. 02/2017-CT(Rate) dated 28.06.17 and corresponding notification issued under MPGST Act.
2. This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act."



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9. Submission of applicant under Section 102 of CGST Act, 2017 and Record of personal hearing dated 27.02.2020.

The applicant submitted application dated 28/29.01.2020 & dated 10.02.2020 under Section 102 of CGST Act, 2017 pointing out the error apparent on face of the record for amendment of the order No. 01/2020 dated 02.01.2020. Shri Ravi Shankar Raichoudhary Advocate of the applicant, has appeared for Personal Hearing on 27.02.2020 and reiterated the points mentioned in their further submission dated 28/29.01.2020 and 10.02.2020.

10. Error as apparent from the face of the record being pointed out by the applicant vide application dated 07.02.2019 under 102 of CGST Act, 2017 for amendment of the order number 01/2020 as referred above.

- (i) The applicant wishes to draw attention of Section 102 (Rectification of advance ruling) of the CGST Act, 2017 which reads as under :

The Authority or the Appellate Authority [or the National Appellate Authority] may amend any order passed by it under section 98 or section 101 [or section 101C, respectively], so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority [or the National Appellate Authority] on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant [, appellant, the Authority or the Appellate Authority] within a period of six months from the date of the order :

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

- (ii) The applicant in their forwarding letter dated 28/29.01.2020 also has drawn attention of the AAR that:

The Supreme Court in the case of ASSTT. COMMR., INCOME TAX, RAJKOT Versus SAURASHTRA KUTCH STOCK EXCHANGE LTD.2008 (230) E.L.T. 385 (S.C.) has given direction regarding the matter of dealing with rectification of mistake. The relevant portion of the order reads as under:

*Rectification of mistake - Scope of - A patent, manifest and self-evident error which does not require elaborate discussion of evidence or argument to establish it, can be said to be an error apparent on face of record and can be corrected while exercising certiorari jurisdiction - An error cannot be said to be apparent on face of record if one has to travel beyond record to see whether judgment is correct or not - An error apparent on face of record means an error which strikes on mere looking and does not need long drawn-out process of reasoning on points where there may conceivably be two opinions - **Such error should not require any extraneous matter to show its incorrectness and it should be so manifest and clear that no court would permit it to remain on record** - Section 254(2) of Income Tax Act, 1961.*

Rectification of mistake - Non-consideration of a decision of Jurisdictional Court or of the Supreme Court can be said to be a mistake "apparent from record" which could be rectified under Section 254(2) of Income Tax Act, 1961.



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10.1 In terms of the Section 102 of CGST Act, 2017, the applicant requests authority of advance ruling to amend the order passed under Section 98 of the CGST Act, 2017 as following error are apparent in the order delivered by authority of advance ruling.

- (a) The authority has taken view that the applicant has replaced 52% in place of 50% and removed the part **“and not fit for human consumption”** in their additional submission on 18.11.19 from the line **“The protein content of the feed grade is less than 50% and not fit for human consumption”** as mentioned in 15(f) of original application.

- (b) In this regard the complete text of 15(f) as mentioned in **the original application** is reproduced below:

“Scientific base to prove the fact that the end product will be used only for PREPARATION OF A KIND USED IN ANIMAL FEEDING – BIOPROCESSED MEAL – The raw material for the preparation of Bio-Processed meal is soya bean meal feed grade falling under HS code 23040030. The protein content of the feed grade is less than 50% and not fit for human consumption. During the manufacturing process soya meal undergoes through fermentation process. The process uses biotechnology to digest protein structure to smaller molecular weight, increase efficiency digestion and absorption. It also breaks down and reduce antigens or anti-nutrient substance due to fermentation. It is a high quality soya protein source of animal such as young animals in Aquatic feed including shrimp feed, poultry feed, Cattle feed & Pig feed. It focuses on the use of protein sources in animal feed by replacing fish meal, skim milk, milk replacer. Fermented soya protein can be use in the various kinds of feeds, such as Poultry, Aqua, cattle, Pig feed etc.

The product being manufactured will only be used for animal feeding and not for in other purpose”

- (c) **The applicant wishes to bring to notice that the para 15(f) starts in original application as under :-**

“The raw material for the preparation of bio – processed meal is soya bean meal feed grade falling under HS code 23040030. The protein content of the feed grade is less than 50% and not fit for human consumption.”

- (d) Subsequently vide letter dated 18.11.2019 the applicant submitted that the words ‘The protein content of the feed grade is less than 50% and not fit for human consumption’ should be read as **‘The protein content of the feed grade is less than 52%’**.

- (e) Regarding changing of protein content from less than 50% to “up to 52%” is concerned, the applicant wishes to submit that sometimes it receives raw material with protein content more than 50% but not exceeding 52%. Hence, in order to give a true and correct picture before the authority of advance ruling, they made the necessary changes. Regarding removal of words **‘and not fit for human consumption’** is concerned, the applicant wishes to submit that the said words pertain to the raw material of the product under consideration i.e. ‘Bio Processed Meal’. It has got no bearing on the use of their finished product and classification of their final product. The final product will only be used for animal feeding and not for any other purpose. **The final product will not be suitable for human consumption because of presence of higher bacterial counts.**



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- (f) The aforesaid text [starting line of para 15(f) as mentioned above] is related to for the **raw material** to be used in the manufacture of finished products.

The authority for advance ruling **by mistake** took this plea that the words '**the protein content of the feed grade is less than 52%**' were meant for finished products whereas a continuous reading of Para 15(f) "*The raw material for the preparation of bio – processed meal is soya bean meal feed grade falling under HS code 23040030. The protein content of the feed grade is less than 50% and not fit for human consumption*" clearly indicates that this part of the submission relates to raw materials and not for the finished products as observed by the authority of advance ruling. Thus, it is amply clear that on the face of the order error has been occurred and so for rectification of error Section 102 of CGST Act, 2017 is rightly applicable.

- (g) The authority of advance ruling also observed that there are no evidences in support of the applicant's claim that the said products under HS code 23099090 is far from the truth **as the process of fermentation of the raw materials etc. for manufacturing of the product has been discussed in detail to prove the fact that the end product will be used for preparation of a kind used in animal feeding.** Accordingly, the applicant has declared at the end of para 15(f) that **the product will only used for animal feeding and not for any other purpose.** This declaration by the applicant was meant for the finished product and by mistake cognizance of this fact was not taken by the authority of advance ruling.
- (h) The aforesaid facts leave no doubt that the product soya meal being manufactured by the applicant through fermentation process will only be used for animal feeding and not for any other purpose. Accordingly, it should be classified under HS code 23099090.
- (i) The various decisions and explanatory Note explanation quoted in the application on classification of animal feed was not discussed by the authority of advance ruling. This declaration "**the product being manufactured will only be used for animal feeding and not for in other purpose**" along with **technical details of manufacturing process as indicated above (in para 15(f) of original application)** confirms that the products being manufactured by the applicant will and will only be used for animal feeding and thus their products should correctly under heading 23099090 and should enjoy the exemption under GST as per Notification No. 2/2017-CT(Rate) dated 28.06.2017 and corresponding notification issued under MPGST Act. At this stage the applicant would like to add that they have cleared their product only for animal feed and **as per the spirit and scheme of the Govt. they must get exemption on their product used exclusively for animal feed.**



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10.2 The applicant also submitted application dated 10.02.2020 pointing out the following error as apparent from the face of the record:

(i) In para 1 of the proceedings of the ruling it has been mentioned that M/s Vippy Industries Ltd., **28, Industrial Area, A.B. Road, Dewas** (hereinafter referred to as the applicant) is engaged in manufacturing and export of various soya processed food, used for human as well as animal consumption. The applicant is having GST registration with GSTIN 23AABCV1297N3ZY. However, fact remains that the final product of the applicant for which confirmation of classification has been sought will be produced in their new unit a **Plot Number 112, Industrial Area No.1, Dewas (MP) 455001**. Though the GST registration 23AABCV1297N3ZY has been mentioned correctly but incorrect address has been mentioned. Further it would be worth to mention that the new registration 23AABCV1297N3ZY obtained by the applicant for the new unit at **Plot Number 112, Industrial Area No.1, Dewas (MP) 455001** on 30.03.2019 This unit is not engaged in manufacturing and export of various soya processed food, used for human as well as animal consumption as mentioned in para 1 of the order.

(ii) The aforesaid apparent mistake has resulted to incorrect information regarding new unit of the applicant as mentioned in para 7.4 (discussion and finding portion) of the ruling referred above. **The new unit of the applicant will only manufacture the finished product which will only be used for animal feeding and the same will not be used for any other purpose.** The product viz. soya flakes / Grits, Soya Flour, Soya lecithin, Soya Protein / TVP, GMO Soyabean meal, non GMO Soya Grits etc. as mentioned in Para 7.4 of the order are manufactured by another unit of the applicant situated at 28, Industrial Area, A.B. Road, Dewas and having GST Number 23AABCV1297N2ZZ.

(iii) The discussion and findings in para 7.4 of the ruling was relevant for the authority to take decision on the facts as mentioned in the said para. This has also induced the authority to take an incorrect decision.

(iv) As the aforesaid mistake are apparent in the order so the applicant requested to amend the order as per Section 102 of the CGST Act, 2017 and pass an order to classify their finished product under heading 23099090 and to extend the benefit of Notification No. 2/2017 –CT (Rate) dated 28.06.2017 for clearing the goods without payment of GST.

11. Discussion & Findings:

In this regard initially we have passed an order dated 02.01.2020. The applicant pointed out some error in the said order apparent on the face of the record. We find that the issue raised in the application is squarely covered under Section 102 under CGST Act, 2017. As the mistake is apparent on the face of the record so we admit the application for consideration on merits.

11.2 We observed that the applicant has taken new registration number 23AABCV1297N3ZY for their new factory at Plot Number 112, Industrial Area No.1,



Dewas (MP) 455001 on 30.03.2019 and the order was passed for their old factory at Plot No. 28, Industrial Area, Dewas having GST no. 23AABCV1297N2ZZ. This has lead to the wrong observation at para 7.4 of the order. The applicant in their original application on 26.07.2019 and on 18.11.2019 before the AAR has submitted that they will manufacture only finished product which will be only used for animal feeding and not for any other purpose. The cognizance of this relevant fact along with manufacturing process as mentioned in the original application dated 26.07.2019 could not be taken as such error was occurred. Thus it appears that this mistake is apparent from the record and thus the order is being amended.

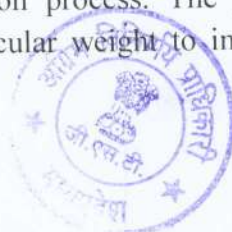
11.3 The applicant also pointed out that we have considered the amendment made by the applicant in their application dated 18.11.2019 is related to finished product whereas it should have been considered for raw materials which has got no bearing on the finished product.

11.4 We have gone through carefully the application filed by the applicant under Section 102 of the CGST Act, 2017 and observed that such mistake has occurred on face of the record of the order 01/2020 dated 02.01.2020 as such we proceed to amend the order due to following reason :

- (a) The products being manufactured by the applicant by various processes like fermentation etc. will only be used for animal feeding and not for any other purpose. The manufacturing process also endorses that the finished product being manufactured from raw material having protein content the feed grade is less than 52% will only be used for animal feeding and not for any other purpose as declared by the Applicant.
- (b) The new unit is not engaged in manufacturing any product viz. soya flakes / Grits, Soya Flour, Soya lecithin, Soya Protein / TVP, GMO Soyabean meal, non GMO Soya Grits etc. as mentioned in para 7.4 of the earlier order dated 02.01.2020.
- (c) The various judgements quoted by the applicant i.e. in the case of National Plastic Industries Ltd. reported in 2018(16)GSTI 287(A.A.R. - GST), in the case of Maheshwari Stones Supplying Company reported in 2018(13) GSTL 345 (A.A.R. - GST), in the case of C.P.R. Mill reported in 2018(17) GSTL 146 (A.A.R. - GST), in the case of SRIVET HATCHERIES reported in 2018 (19) G.S.T.L. 140 (A.A.R. - GST)] along with explanatory note to heading 23.09 also indicates that product being used for animal feeding will be classifiable under 23099090.

11.5 Going through the application of the party, it is found that the applicant has sought confirmation of classification of their product to whom they term it "Preparation of a kind used in Animal Feeding – Bio Processed Meal" falling under HS Code 23099090. Further it is noted that the main raw material for the said preparation is '**Meal of Soyabean**'.

Further, the applicant has provided a detailed process starting from procurement of the raw material to the manufacture of finished product. During the manufacturing process soya meal undergoes through fermentation process. The process uses biotechnology to convert protein structure to smaller molecular weight to increase efficiency digestion and



absorption. It also breaks down and reduces antigens or anti-nutrient substance due to fermentation.

11.6 We further notice that the application dated 25.07.2019 read with amended application dated 18.11.2019 categorically indicates that the content of the protein content the feed grade is less than 52% exists in the raw material i.e. meal of soyabean.

11.7 The applicant has claimed the classification under HSN code 23099090 which is exclusively meant for animal feed and attracts nil rate of GST. The chapter note 2309 reads as under :

“Note : heading 2309 includes product 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 characteristic of the original material, other than vegetable waste, vegetable residues and by products of the such processing”. Further the tariff heading 23099090 is detailed as under:

23.09	Preparations of a kind used in animal feeding.
2309.10	Dog or cat food, put up for retail sale
2309.90	Others
23099010	Compounded animal feed
23099020	Concentrates for compound animal feed
	Feed for fish (prawn etc.)
23099031	Prawn and shrimps feed
23099032	Fish meal in powdered form
23099039	Others
23099090	Others

Further, the notification 02/2017-CT(Rate) dated 28.06.2017 and corresponding notification issued under MPGST Act has exempted intra-state supplies of goods, the description of which is specified in column (3) of the Schedule appended to the said notification, falling under the tariff item, subheading, heading or Chapter, as the case may be, as specified in the corresponding entry:

Sl.No.	Chapter heading/ sub heading / tariff item	Description of goods
102.	2302, 2304, 2305, 2306, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake

11.8 From above it is derived that the Chapter heading 23099090 is exclusively meant for animal feed. We find that the applicant has started their new unit at 112, Industrial Area No.1 Dewas for manufacture of the finished product “Preparation of a kind used in Animal Feeding – Bio Processed Meal” which will be used for animal feeding only. The applicant also submitted a detailed process as how the raw material soyabean meal will undergoes various processes in various section like inoculation and missing section, bio-processing section / fermentation section, drying section, milling and packaging section to achieve the goal of manufacturing the finished product. The applicant submitted the basic quality addition made to the raw material to obtain the final product and the changes takes place in



the raw material has also been categorically mentioned in para 15(c) of the application of the applicant which reads as under :

S.No.	Properties	Soya bean meal	Bio-Processed Soya Bean meal
1	Anti nutritional factor. c. Glycinin d. B.Conglycinin	4-6 2 -3	< 0.5 < 0.2
2	P.H.	6.5-7	4.5 -5.0
3	Lactic Acid	0.03 -0.05	4 -4

The applicant further in 15(f) of the application has categorically submitted the scientific base in detail to prove the fact that the end product will be used for Preparation of a kind used in Animal Feeding – bio processed meal. Basically the process uses bio technology to digest protein structure to smaller molecular weight, increase efficiency digestion and absorption. It also breaks down and reduces antigens and antnutrient substance due to fermentation. The applicant has also emphasised that the finished product is a high quality soya protein source of animal such as animals in Aquatic feed including shrimp feed, poultry feed, cattle feed and pig feed. It focuses on the use of protein sources in animal feed by replacing fish meal, skim milk, milk replacer. The applicant also declared that the fermented soya protein can be used in various kind of animal feed such as poultry, aqua, cattle, pig feed etc.

The applicant finally declared that the **product Preparation of a kind used in Animal Feeding – Bio Processed Meal will only be used for animal feeding and not for in other purpose.**

11.9 From the above discussion and as per declaration of the Applicant that the said product i.e. Bio Processed Meal is only for specific use of Animal Feed, it is clear to us that the finished product being manufactured by the applicant will only be used for animal feeding and not for any other purpose and thus it should fall under chapter heading 23099090. We hold it accordingly.

11.10 Serial No. 102 of Notification 2/2017 –CT (Rate) dated 28.06.2017 and corresponding notification issued under MPGST Act speaks that the goods Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake falling under chapter heading 2302, 2304, 2305, 2306, 2308, 2309 are exempted from payment of GST.

11.11 In view of the aforesaid discussion the applicant is eligible to avail exemption on their finished products **“Preparation of a kind used in Animal Feeding – Bio Processed Meal” from payment of GST under** Notification 2/2017 –CT (Rate) dated 28.06.2017 and corresponding notification issued under MPGST Act. We hold accordingly



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12 RULLING:-

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017 [amended under section 102 of the CGST Act, 2017])

1. The product **"Preparation of a kind used in Animal Feeding – Bio Processed Meal"** is entitled to classify under HS code – 23099090 and therefore entitled to clear the said goods for specific use of Animal Feeding without payment of GST under serial no. 102 of the Notification No. 02/2017-CT(Rate) dated 28.06.17 and corresponding notification issued under MPGST Act.
2. This order is valid for the applicant situated at Plot Number 112, Industrial Area No.1, Dewas (MP) 455001 having GSTIN 23AABCV1297N3ZY.
3. This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

SR

(Virendra Kumar Jain)
(MEMBER)

sd

(MANOJ KUMAR CHOUBEY)
(MEMBER)

Copy to:- NO.17/2019/A.A.R./R-28/17 INDORE dt. 28/02/2020

1. M/s Vippy Industries Ltd., Plot Number 112, Industrial Area No.1, Dewas (MP) 455001
2. The Chief Commissioner, CGST& Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST& Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

सत्यप्रतिलिपि

Manoj

