



RAJASTHAN
AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH
COURT
JAIPUR – 302005 (RAJASTHAN)



ADVANCE RULING NO. RAJ/AAR/2022-23/08

Umesh Kumar Garg Joint Commissioner	:	Member (Central-Tax)
Mahesh Kumar Gowla Additional Commissioner	:	Member (State-Tax)
Name and address of the applicant	:	M/s Supreme Gums Private Ltd. G 997 to 1000, Sitapura Ind. Area Extn. Jaipur, 302022 Rajasthan
GSTIN of the applicant	:	08AAGCS4884H1ZW
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;
Date of Personal Hearing	:	10.01.2023 & 06.04.2023
Present for the applicant	:	Shri Arun Soni, CA, Shri Keshav Gupta, CA
Date of Ruling	:	31.08.2022

Note: Under Section 100 of the CGST/RGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/RGST Act, 2017, within a period of 30 days from the date of service of this order.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST 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 provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s Supreme Gums Private Ltd. G 997 to 1000, Sitapura Ind. Area Extn. Jaipur, 302022 Rajasthan (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under:

(a) Classification of any goods or services or both;

A. SUBMISSION OF THE APPLICANT:(in brief)

- M/s Supreme Gums Private Ltd. G 997 to 1000, Sitapura Ind. Area Extn. Jaipur, 302022 Rajasthan (hereinafter the applicant), Manufacturers and supplies guar gum powder and other ancillary products for a range of applications in the industries sectors including construction, textile, cosmetics, pharmaceuticals, paper, oil well drilling, mining and explosive.
- Applicant proposes to manufacture a new product which is a liquid suspension of guar gum powder (suspended in Mineral oil). The product is most commonly known as guar gum slurry and it has application in oil and gas industry in the process of hydraulic fracturing.
- The suspension of guar gum powder is made with the help of mineral oil, special clay, and surfactant which keeps the suspension stable and do not allow guar gum powder to settle down and separate out of the suspension. The manufacturing process is as under-
- 1. Firstly, add mineral oil 50 liters (HSN 271019) to the high speed stirrer.

2. Start the stirrer and 1 Kg Clayton AF (HSN 38249900) to the vertex and stirring for 15 minutes.
3. Keep the stirrer running and add 250 ml BYK GO 8720(HSN38249900) to the vortex and stir for 15 minutes.
4. Lastly, add 49 Kg guar gum hum powder (HSN 130232) and continue stirring for another 15 minutes.

The other steps are continued till the desired quantity for shipment is achieved. The final Product manufactured using above process has following ingredients- guar gum powder 46 % (HSN 130232), mineral oil 51%,(HSN 271019), Clayton AF (HSN 38249900),2.5%, BYK GO 8720, 0.5% (HSN38249900).

Once product is ready it is poured in to plastic IBC tank of 1000 liter capacity and shipped to final buyer.

B Interpretation and understanding of applicant on question rose (in Brief)

- As per the, Applicant, since the product is primarily a mineral oil-based liquid product of guar gum powder which contains more than 50% mineral oil and has application in oil and gas industries, the applicant is of the view that such product shall be classified under chapter 27 of the first schedule of customs tariff act 1975 and accordingly the GST rate shall be applicable.

C. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:-

1. what should be the classification and applicable tax rate on the supply of liquid suspension of guar gum powder (suspended in mineral oil), which is commonly known as "guar gum slurry" manufactured by the applicant under notification No.1/2017 –CT dated 28.06.2017 as amended.

D. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 10.01.2023. Shri Keshav Gupta, CA, Authorized Representative appeared for personal hearing. He reiterated the submission already made in written submission. During P.H. he was asked the certification of composition of their product in support of submission of composition of product made by them. Sh. Kishan Gupta submitted that a certified formula (composition) from a recognized lab in respect of their product will be submitted within fifteen days. He requested for early disposal of the application. Shri Keshav Gupta, CA has not submitted the same. Another P.H was given for dated 06.04.2023. Shri Arun Soni, CA presented on hearing they did not submit the desire documents/clarification in respect of queries raised by the Authority. On dated 23.04.2023 the applicant submitted vide mail which is as under "In continuation of our endeavor to receive an advance ruling from your honor in relation to a new product to be developed by our client M/S Supreme Gums P Ltd., we wish to submit to your honor, the registration certificate and gst return copies. Further, we wish to submit that during our last PH, we were asked to arrange a meet with the person most relevant to discuss the composition of the product so that your honor reach on an appropriate conclusion. For that matter, we request you to provide us a day and a time on which we can come up with the person concerned and discuss the product details".

Applicant also submitted GSTR-1 return for March 2023 and GSTR-3B return for March 2023 along with registration but has not disclosed the HSN Code and product detail neither in registration certificate nor in registration.

E. COMMENTS OF THE JURISDICTIONAL OFFICER

Comments received from the Dy. Commissioner, CGST, Division-F, Sector 10, Vidhyadhar Nagar, Jaipur vide letter C.No. V(16)91/Tech/Misc/Div-F/2012/1316 dated 07.11.2022 are as under:-

Chemical Description

Environmentally friendly and biodegradable guar slurry is made from the guar bean, an annual legume. The endosperm of the guar seed is ground into a fine powder. It is an effective viscosifying agent and is used in many industrial and commercial applications. When mixed with water it forms a gel-like substance with pseudo plastic flow properties.

Guar gum is a branched polysaccharide biopolymer. This long carbohydrate molecule is a type of galactomannan. Guar gum has the ability to rapidly hydrate in cold or hot water with uniform and very high viscosities at relatively low concentrations. In nature, guar gum is inert and resistant to oil, greases, and solvents.

Common industrial Uses of Guar Slurry

Used extensively by the oil and gas industries in hydraulic well fracturing operations, guar slurry enables high-viscosity hydraulic fracturing to be an efficient and cost effective process. Guar gum is a readily available and low-cost component which renders water viscous for suspending and carrying prop pant deep into well fractures. Its properties reduce friction and increase water pressure.

Comments on the application under AAR

The percentages of the components should add up to 100%, so the selection of exact amounts of Guar gum powder (mentioned 46s») and Mineral Oil must fall within a set of range and could only be specific by practicing this invention on a larger time frame.

It appears that the process undertaken by the appellant, by adding various additives to change its viscosity and solubility as per the requirement of the user. Thus, there might be a change of character, use and identity of the goods but that doesn't classify the new product to be primarily a mineral oil-based product.

Here it is also a question that there is any government authorized Chemical Laboratory/Examiner has verified the resultant concentration of the new product and the taxpayer interpretation that new product to be primarily a mineral oil-based product?

In view of the above, it is submitted that Chapter 13 of HSN included the goods, modified by chemical treatment in order to improve their properties (viscosity, solubility etc). A chemical treatment is a process in which substances interact causing chemical or physical changes and such processed material would cover under Chapter 13 of HSN. Thus, it is observed that the processed material 'Guar Gum Slurry' which is a liquid suspension of guar gum powder (suspended in mineral oil) must also fall under the Chapter 13 of the First Schedule to Customs Tariff Act, 1975 and accordingly the GST rate shall be applicable.

F. FINDINGS, ANALYSIS & CONCLUSION:

At the outset we would like to make it clear that the provisions of CGST Act and GGST Act are in pari materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the GGST Act

- 1) We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of hearing and the comments of the Central Tax Authority. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts. We would like to discuss the submission made by applicant and will take up the above question for discussion one by one.
- 2) The applicant i.e M/s Supreme Gums Private Ltd. G 997 to 1000, Sitapura Ind. Area Extn. Jaipur, 302022 Rajasthan (hereinafter the applicant), Manufacturers and supplies guar gum powder and other ancillary products for a range of applications in the industries sectors including construction, textile, cosmetics, pharmaceuticals, paper, oil well drilling, mining and

explosive. Applicant proposes to manufacture a new product which is a liquid suspension of guar gum powder (suspended in Mineral oil). The product is most known as guar gum slurry and it has application in oil and gas industry in the process of hydraulic fracturing.

3) The applicant submitted the process that the suspension of guar gum powder is made with the help of mineral oil, special clay, and surfactant which keeps the suspension stable and do not allow guar gum powder to settle down and separate out of the suspension. The manufacturing process is as under-

- 1. Firstly, add mineral oil 50 liters (HSN 271019) to the high speed stirrer.
- 2. Start the stirrer and 1 Kg Clayton AF (HSN 38249900) to the vertex and stirring for 15 minutes.
- 3. Keep the stirrer running and add 250 ml BYK GO 8720(HSN38249900) to the vortex and stir for 15 minutes.
- 4. Lastly, add 49 Kg guar gum hum powder (HSN 130232) and continue stirring for another 15 minutes.

The other steps are continued till the desired quantity for shipment is achieved. The final Product manufactured using above process has following ingredients- guar gum powder 46 % (HSN 130232), mineral oil 51%, (HSN 271019), Clayton AF (HSN 38249900), 2.5%, BYK GO 8720, 0.5% (HSN 38249900).

Once product is ready it is poured in to plastic IBC tank of 1000 liter capacity and shipped to final buyer.

4) Under GST, the applicable rates of CGST are notified by Notification No. 1/2017-C.T. (Rate), dated 28-6-2017 and in terms of explanation (iii) and (iv) to the said Notification,

(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.

Thus for the purposes of classification under GST, the First Schedule to Customs Tariff Act is only applicable. Further the first schedule to the Customs Tariff Act, 1975, and the Rules of interpretation therein are to be followed for classifying a product, in terms of Explanation 1 and 2 to Notification No. 1/2017-Compensation Cess (Rate), dated 28-6-2017.

5) As per the, Applicant, since the product is primarily a mineral oil-based liquid product of guar gum powder which contains more than 50% mineral oil and has application in oil and gas industries, the applicant is of the view that such product shall be classified under chapter 27 of the first schedule of customs tariff act 1975 and accordingly the GST rate shall be applicable. We find in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) the **CHAPTER 27** pertains to - **Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes**

Further in the notes it is mentioned that -NOTES : 1. This Chapter does not cover: (a) separate chemically defined organic compounds other than pure methane and propane which are to be classified in heading 2711; (b) medicaments of heading 3003 or 3004; or (c) mixed unsaturated hydrocarbons of heading 3301, 3302 or 3805

SUPPLEMENTARY NOTE : In this Chapter, reference to any standard of the Bureau of Indian Standards refers to the last published version of that standard. Illustration : IS 1459 refers to IS 1459: 2018 and not to IS 1459: 1974.

(h) "lubricating oil" means any oil, which is ordinarily used, for lubrication, excluding any hydrocarbon oil, which has its flash point below 93.30 Centigrade; (i) "jute batching oil" and "textile oil" are hydrocarbon oils which have their flash point at or above 93.30C, and is ordinarily used for the batching of jute or other textile fibres; (j) the expression "petroleum jelly crude" (tariff item Nos. 2712 10 10) shall be taken to apply to petroleum jelly of a natural colour higher than 4.5 by the ASTM D 1500 method

We observe that Chapter 27 is about **Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes only and the product as claimed by applicant should not fall under Chapter 27 of HSN.**

6) Further The jurisdictional officer has observed that the processed material 'Guar Gum Slurry 'which is a liquid suspension of guar gum powder (suspended in mineral oil) must also fall under the Chapter 13 of the First Schedule to Customs Tariff Act, 1975 and accordingly the GST rate shall be applicable. We observe that without a proper composition report of product, it is not to be ascertain that product will fall under **CHAPTER 13** as this chapter denotes about the **Lac; gums, resins and other vegetable saps and extracts and Guar Gum Slurry** is not predominating the product as applicant claimed that mineral oil is used more than 50%.

6.1) we would also refer the chapter 34 for reference here which is as under-**CHAPTER 34**

Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster

NOTES : 1. This Chapter does not cover : *(a) edible mixtures or preparations of animal, vegetable or microbial fats or oils of a kind used as mould release preparations (heading 1517); (b) separate chemically defined compounds; or (c) shampoos, dentrifrices, shaving creams and foams, or bath preparations, containing soap or other organic surface-active agents (heading 3305, 3306 or 3307).....

2. In heading 3403, the expression "petroleum oils and oils obtained from bituminous minerals" applies to the products defined in Note 2 to Chapter 27.....

Chapter 34 of Customs Tariff is as under:-

3403 - LUBRICATING PREPARATIONS (INCLUDING CUTTINGOIL PREPARATIONS, BOLT OR NUT RELEASE PREPARATIONS, ANTI-RUST OR ANTI-CORROSION PREPARATIONS AND MOULD RELEASE PREPARATIONS, BASED ON LUBRICANTS) AND PREPARATIONS OF A KIND USED FOR THE OIL OR GREASE TREATMENT OF TEXTILE MATERIALS, LEATHER, FURSKINS OR OTHER MATERIALS, BUT EXCLUDING PREPARATIONS CONTAINING, AS BASIC CONSTITUENTS, 70 % OR MORE BY WEIGHT OF PETROLEUM OILS OR OF OILS OBTAINED FROM BITUMINOUS MINERALS*iii- Containing petroleum oils or oils obtained from bituminous minerals:*

7) The authority has asked the report of composition of product from certified laboratory from applicant during the P.H., as the product is new in nature and without any old ruling or proper verification it is not possible to identify any product and decide HSN code. It is not clear whether the process of mixing of guar slurry with mineral oil is simply a mixture or it emerges as new product. The applicant has not submitted the required details before AAR.

8) Thus, considering above discussion, we observe that ruling can not be pronounced unless the proper chemical composition and nature of product is not submitted.

In view of the foregoing, without going into the merits of the case, we rule as under: -

RULING

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

The subject application for advance ruling made by the applicant is not maintainable and hereby rejected under the provisions of the GST Act, 2017.

Umesh
31.8.23

(Umesh Kumar Garg)
MEMBER
CENTRAL TAX



W.K.G.
31/08/2023

(Mahesh Kumar Gowla)
MEMBER
STATE TAX

SPEED POST

M/s Supreme Gums Private Ltd. G 997 to 1000, Sitapura Ind. Area Extn. Jaipur, 302022 Rajasthan

F. No. AAR/SF/2022-23/ 84 - 88

Date: 31/08/23

Copy to: -

1. The Chief Commissioner, CGST and central Excise, (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan 302005
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Pr.Commissioner, CGST and Central Excise Commissionerate Jaipur, Rajasthan.
4. The Dy. Commissioner, CGST, Division-F, Sector 10, Vidhyadhar Nagar, Jaipur.

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