

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Mr Brajesh Kumar Singh, Joint Commissioner, CGST & CX
Mr Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Shopinshop Franchise Pvt. Ltd.
Address	6 th Floor, Flat-6B, 3A Madam Cama Palace, Auckland Place, Kolkata, West Bengal, Pincode-700017
GSTIN	19ABICS4748K1ZN
Case Number	WBAAR-31 of 2022
ARN	AD191122009326F
Date of application	November 28, 2022
Jurisdictional Authority (State)	PARK STREET Charge, KOLKATA SOUTH Circle
Jurisdictional Authority (Central)	Ballygunge Division, Kolkata South Commissionerate
Order number and date	27/WBAAR/2022-23 dated 09.02.2023
Applicant's representative heard	Mr. Dilip Doshi, FCA

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant is a company engaged in manufacturing and processing of dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes and sold as bouquets made with dried parts of plants and packed in plastic foil packaging.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

- (i) Whether the bouquets made with dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes and sold with plastic foil packaging would be considered as “Exempt supply” under GST as covered under HSN code 06049000.
- (ii) Whether NIL (0%) GST is applicable on Bouquets when bouquets are made from dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes and sold with plastic foil packaging.
- (iii) Whether classification of bouquets made from dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes falls under HSN code 06049000 and is exempt from GST and if not then what is the classification of bouquets which are made with dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes and sold with plastic foil packaging and what is the rate of GST.
- (iv) Whether Sl. No. 34 of Notification No. 02/2017-CT (Rates) dated 28/06/2017 covers “Bouquets” made from dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes and is therefore exempt from GST (0% GST).

1.4 The aforesaid questions on which the advance ruling is sought for are found to be covered under clause (a) and (b) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the question raised in the application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

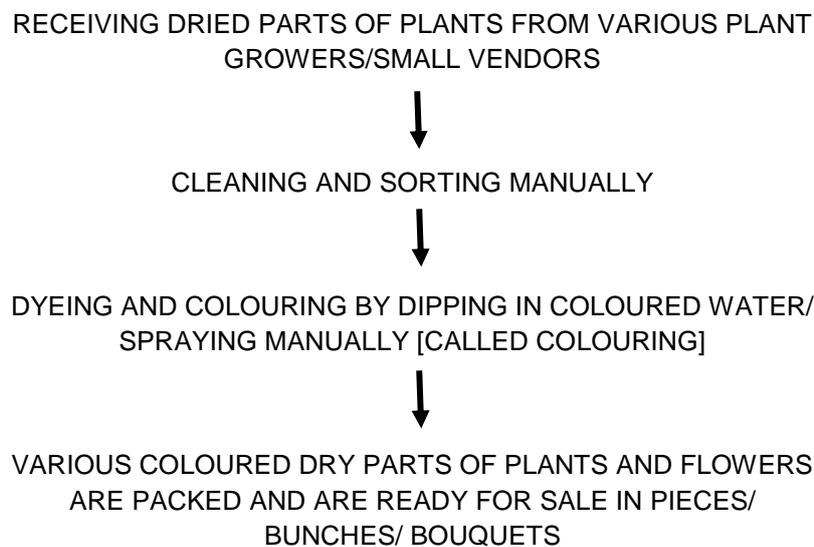
2. Submission of the Applicant

2.1 The applicant submits that it supplies “Bouquets” made with dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes and sold with plastic foil packaging. According to the applicant, supply of the aforesaid goods is exempted from payment tax vide serial number 34 of Notification No.2/2017-Central Tax (Rate) dated 28.06.2017, as amended [corresponding West Bengal state Notification No. 1126 F.T. dated 28.06.2017].

2.2 The applicant submits further that the Bunches/Bouquet made from dry parts of plants and dry flowers would be covered under HSN 0604 and therefore supply of such goods would be treated as exempt supply. The applicant, in this context, draws references to Note 2 under Chapter 6 of the First Schedule to the Customs Tariff Act, 1975 which reads as follows:

“Any reference in heading 0603 or 0604 to goods of any kind shall be construed as including a reference to bouquets, floral baskets, wreaths and similar articles made wholly or partly of goods of that kind, account not being taken of accessories of other materials. However, these headings do not include collages or similar decorative plaques of heading 9701.”

2.3 Process of making dry parts of plants, foliage, flower buds, grasses and branches of plants is reproduced in the flowchart as furnished by the applicant:



2.4 In course of personal hearing, the applicant has produced before this Authority some sample input raw materials like dried Lotus Pods, dried Pine Cones, dried Wheat Stalks, flowers made from Shola (Sola) wood, dried Palm Leaves, dried Lentil/other Stalks etc. along with a few number of Bouquets made out of the inputs, so produced.

3. Submission of the Revenue

The officer concerned from the revenue has not expressed any view on the issue raised by the applicant.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorised representative of the applicant during the course of personal hearing.

4.2 The process involved as it appears from the flow chart provided by the applicant is that the applicant collects dried parts of various plants from plant growers/vendors, clean & sort the items, dye/colour the items as per specifications and pack the items in plastic foil packaging in pieces/bunches/bouquet. In short, the raw materials undergo some sort of

processing before packing with a simple plastic foil packaging. The applicant submits that all the raw materials used in making bunches/ bouquet are plant products.

4.3 According to the applicant, they use dry parts of plants, foliage, flower buds, grasses and branches of plant in making "Bouquets". We find that Chapter 6 of the GST Tariff deals with "Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage". Further, in terms of Note 2 of Chapter 6, as it has already been referred by the applicant, "any reference in heading 0603 or 0604 to goods of any kind shall be construed as including a reference to bouquets, floral baskets, wreaths and similar articles made wholly or partly of goods of that kind". We find that Heading 0603 deals with "Cut Flowers and Flower Buds of a Kind Suitable for Bouquets or for Ornamental Purposes, Fresh, Dried, Dyed, Bleached, Impregnated or Otherwise Prepared" (emphasis supplied). Therefore, the applicant's final product i.e. Bouquet, made with "Dried and/or Dyed" flower buds will be classifiable as "Other" under Tariff Item No. 06039000. We find that Heading 0604 deals with "Foliage, Branches and Other Parts of Plants, without Flowers or Flower Buds, and Grasses, Mosses and Lichens, Being Goods of a Kind Suitable for Bouquets or for Ornamental Purposes, Fresh, Dried, Dyed, Bleached, Impregnated or Otherwise Prepared" (emphasis supplied). Therefore, the applicant's final product i.e. Bouquet, made with "Dried and/or Dyed" parts of plants, foliage, grasses and branches of plant, will be classifiable as "Other" under Tariff Item No. 06049000.

4.4 We find that vide serial number 34 of Notification No.2/2017-Central Tax (Rate) dated 28.06.2017, as amended [corresponding West Bengal state Notification No. 1126 F.T. dated 28.06.2017], the whole Chapter 6 which deals with "Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage" is exempted from payment of tax. Hence, supply of goods by the applicant under Tariff Item Nos. 06039000 and 06049900, whether individually or in combination, is also exempt from payment of tax.

In view of the above discussions, we rule as under:

RULING

Bouquet made with dry parts of plants, foliage, flower buds, grasses and branches of plant which are dried, bleached, dyed and coloured for decorative and ornamental purposes and sold with plastic foil packaging will be classifiable under Tariff Item Nos. 06039000 or 06049900, depending on its constituents and supply of the aforesaid goods is exempted from payment of tax vide serial number 34 of Notification No.2/2017-Central Tax (Rate) dated 28.06.2017, as amended [corresponding West Bengal state Notification No. 1126 F.T. dated 28.06.2017]

(BRAJESH KUMAR SINGH)

Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 09.02.2023

To

Shopinshop Franchise Pvt. Ltd.

6th Floor, Flat-6B, 3A Madam Cama Palace, Auckland Place, Kolkata, West Bengal,
Pincode-700017

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, GST Bhavan, 180, Shantipally, R.B. Connector, Kolkata-7000107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Deputy/Assistant Commissioner, CGST & CX, Ballygunge Division, Kolkata South Commissionerate, GST Bhavan, 180, Shantipally, R.B. Connector, Kolkata-7000107
- (4) The Commissioner of CGST& CX, Kolkata South Commissionerate, GST Bhavan, 180, Shantipally, R.B. Connector, Kolkata-7000107
- (5) Office Folder

