

GIB/KN/CHROMACHEMIE/14.01.2020/AAAR-31

Appellate Advance Ruling Category : HSN

State : Karnataka

Order No.: GIB/KN/CHROMACHEMIE/14.01.2020/AAAR-31

Name of Entry :
CHROMACHEMIE LABORATORY PRIVATE LIMITED

Date : 14-01-2020

Breif Issue :

Issue & Fact of the Case:

Whether the Pharmaceutical Reference Standards (Prepared Laboratory Reagents) imported and supplied by the applicant and classified under Tariff Item 3822 00 90 of the Customs Tariff Act, 1975 is covered under Entry No. 80 of Schedule-II to Notification No. 1/2017- Integrated Tax (Rate) dated 28th June 2017 attracting a levy of Integrated Tax at the rate of 12%?

The Appellant, is a leading organization engaged in new product development for the pharmaceutical, bio pharmaceutical and food industries.

PRS is a reference analytical sample provided by the official global pharmacopoeias required to be used by the pharmaceutical manufacturers to confirm that their product quality standards are in conformity with the respective monographs prescribed. The drug manufacturing companies use these PRS in their laboratory tests on all drug substances for determining the purity of medicine and identification and quantification of pharmaceutical impurities.

The Appellant is importing PRS as 'Prepared Laboratory Reagent' and classifying the same under Tariff Entry 3822 00 90 of the Customs Tariff Act, in line with the decision of Hon'ble CESTAT, Bangalore in the matter which is reported in *LGC Promochem India Pvt. Ltd. v. Commissioner of Customs ct Service Tax, Bangalore ,reported in 2016 (340) E.L.T. 406 (Tri. – Bang.)*.

Pharmaceutical Reference Standards is a Prepared Laboratory Reagent intended to be used exclusively for a specified analytical calibrating and referencing purposes and classifiable under Tariff Item 3822 00 90 of the Customs Tariff. The Appellant submits that the Government of India, on the recommendations of the GST Council vide the Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2018 (*hereinafter referred also to as 'Rate Notification'*) has notified the applicable rate of the Integrated Tax that shall be levied on inter-State supply of goods.

It is submitted that the on Entry in the Rate Notification which covers all diagnostic kits and reagents falling under Chapter Heading 3822 is Entry No. 80 of Schedule-II, which provides

for IGST rate at 12%.

Schedule-III — 12%

| S. No. | Chapter/ Heading/ Sub-heading/ Tariff item | Description of Goods |
|--------|---|----------------------------------|
| 80. | 3822 | All diagnostic kits and reagents |

The Appellant submits that in the matter of *Commissioner of Commercial Tax, U.P. v. A.R. Thermosets (Pvt.) Ltd.* reported in 2016 (339) E.L.T. 500 (S.C.), the issue under consideration before the Apex Court was with respect to clarification about the rate of tax applicable to the sales of 'bitumen emulsion. The Apex Court held that when the Entry in question uses the word 'bitumen' without any further qualification or exclusion then it shall include all types of 'bitumen' which shares the composition identity, and in common and commercial parlance is would be treated as the same product. In view of the above judgment and applying the ratio to the instant case, the Appellant hereby submits that the term "*reagent*" used in the description under Entry No. 80 to Schedule-11 of the Rate Notification has been used as a generic expression and it would cover all reagents, which share and have common composition and commercial entity, and meet the popular parlance test.

Relying on several other case laws, the Appellant submitted that applying the ratio of the relied upon decisions, the term 'Reagents' in the entry SI.No 80 covers all types of reagents.

Decision of Advance Ruling Authority :

Decision:

The Pharmaceutical Reference Standards (Prepared Laboratory Reagents) imported and supplied by the Appellant and classified under Tariff Item 3822 00 90 of the Customs Tariff Act, 1975 is covered under Entry No. 80 of Schedule-II to Notification No. 1/2017-Integrated Tax (Rate) dated 28th June 2017 attracting a levy of Integrated Tax at the rate of 12%.

We set aside the [Advance Ruling No KAR/ADRG 71/2019 dated 23-09-2019](#) and allow the appeal filed by M/s Chromachemie Laboratory Pvt Ltd.