

APPELLATE AUTHORITY ADVANCE RULING (APPEAL) NO. GUJ/GAAAR/APPEAL/2022/19, Dated 26th August, 2022

GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICES TAX

D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,

AHMEDABAD - 380 009.

(IN APPLICATION NO. Advance Ruling/SGST & CGST /2021/AR/06)

Name and address of the appellant	:	M/s. Adarsh Plant Protect Ltd., Plot No.-604, Phase-IV, GIDC Estate, Vithal Udyognagar, Anand - 388 121
GSTIN of the appellant	:	24AABCA6650Q1ZE
Advance Ruling No. and Date	:	GUJ/GAAR/R/25/2021 dated 09.07.2021
Date of appeal	:	05.08.2021
Date of Personal Hearing	:	28.07.2022
Present for the appellant	:	Shri Atish Patel (MD) and Shri Ketan Maheshwari (CFO).

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017' and the 'GGST Act, 2017') 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, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2.The present appeal has been filed under Section 100 of the CGST Act, 2017 and the GGST Act, 2017 by M/s. Adarsh Plant Protect Ltd (hereinafter referred to as the Appellant) against the Advance Ruling No. GUJ/GAAR/R/25/2021 dated 09.07.2021.

3.The appellant has applied for Advance Ruling for determining the HSN and applicable tax on 'Agricultural manually hand operated Seed dressing, Coating and Treating drum'.

4.The appellant has submitted that these manually operated machine are used by the farmer in agriculture to cover, coat and treating chemicals on seeds before sowing and falls under HSN 8201 and attract Nil rate of GST. They further submitted that other manufacturers of similar kinds of machines of power operated are charging 5% GST under HS code 84371000.

5.The Gujarat Authority for Advance Ruling (herein after referred to as 'the GAAR'), vide Advance Ruling No. GUJ/GAAR/R/25/2021 dated 09.07.2021, inter-alia observed that chapter 8201 to 8205 includes tools which are used in hand and these tools almost always have a spring which forces the shafts apart from cutting and a hook or other fastening so that they can be easily opened/closed with one hand. Whereas appellant's product is not hand tool rather it is machine used for seed dressing, coating and treating the seed with chemicals. That there is no merit to classify the subject goods at HSN 8201. The GAAR also relied upon the Notes of HSN 8436 which states that other agricultural machinery under the said HSN code includes seed dusting machines usually consisting of one or more hoppers feeding a revolving drum in which the seed are coated with insecticidal or fungicidal powders; the chapter makes no difference between manual and power driven machines; after going through HSN 8436 notes, HSN 8437 which covers machines for cleaning, sorting or grading seed, grains or dried leguminous vegetables etc is not required to be examined.

5.1In view of the foregoing, the GAAR ruled as follows:-

"Seed dressing, coating and treating drum machine is classified at HSN 84368090 tariff item and liable to GST at 12% [6% CGST + 6%SGST], "

6.Aggrieved by the aforesaid advance ruling, the appellant has filed the present appeal.

6.1The appellant in the ground of appeal has submitted that only because their manually operated seed dressing drum does consist of Drum in which seeds are coated with chemicals before sowing, is not a correct base to classify their product under HSN Code 8436. The basic fact and necessity of HSN Code 8436, which includes various agricultural machinery fitted with mechanical or thermal equipment. Under HSN Code 8436 the machinery operates with use of additional power of mechanical or thermal kind. Whereas their product i.e. manually operated seed dressing drum is not fitted with any mechanical or thermal equipment but it is rotated with hand and opened or closed with hand and therefore, cannot be classified under HSN 8436. The appellant also submitted a CD containing a video for understanding operation of manually operated seed dressing drum.

6.2The appellant submitted that their manually operated seed dressing drum should either be classified under HSN 8201 which attract Nil rate of GST where manually operated agriculture or animal driven tools are classified or under HSN 843 7 which attracts 5% rate of GST where

machinery for cleaning, sorting or grading of seed or grain is included.

6.3The appellant submitted that their product is manually operated and is used to cover and coating of chemicals over seeds or grains before sowing to increase their germination and immunity against disease during early period of growing and hence classifiable under HSN 8437 which attracts 5% rate of GST.

7.During the course of personal hearing held on 28.07.2022, the appellant reiterated the submissions made in the appeal dated 02.08.2021. They further submitted that if exemption is not granted then their product will become expensive for the farmers.

FINDINGS

8.We have carefully gone through and considered the appeal and written submissions filed by the appellant, submissions made at the time of personal hearing, Advance Ruling given by the GAAR and other material available on record.

9.The main issue to be decided here is the classification of the product viz. "Agricultural manually hand operated Seed dressing, Coating and Treating drum" and to decide applicable rate of GST on the same.

10.We find that the classification of goods under GST regime has to be done in accordance with the Customs Tariff Act, 1975, which in turn is based on Harmonized System of Nomenclature, popularly known as 'HSN'. The General Rules of Interpretation, Section notes and Chapter notes as specified under the Customs Tariff Act, 1975 are also applicable for deciding classification of goods under the GST regime. However, once an item is classified in accordance with the Customs Tariff Act, 1975, the rate of tax applicable would be arrived at on the basis of notifications issued under GST by the respective Governments.

11.The appellant claimed that agricultural manually hand operated seed dressing drum is classifiable under Chapter Heading 8201 or 8437 of Customs Tariff Act, 1975 which are elaborated below:

CHAPTER 82

8201 - HAND TOOLS, THE FOLLOWING: SPADES, SHOVELS MATTOKS, PICKS, HOES, FORKS AND RAKES; AXES, BILL HOOKS AND SIMILAR HEWING TOOLS; SECATEURS AND PRUNERS OF ANY KIND; SCYTHES, SICKLES, HAY KNIVES, HEDGE SHEARS, TIMBER WEDGES AND OTHER TOOLS OF A KIND USED IN AGRICULTURE, HORTICULTURE OR FORESTRY.

The Chapter Note 1 of Chapter 82 of Custom Tariff Act, 1975 is read as under:-

1.Apart from blow lamps, portable forges, grinding wheels with frameworks, manicure or pedicure sets and goods of heading 8209, this chapter covers only articles with a blade, working edge, working surface or other working part of

a.Base metal;

b.Metal carbides or cermets;

c.Precious or semi-precious stones (natural, synthetic or reconstructed) on a support of base metal, metal carbide or cermet; or

d.Abrasive materials on a support of base metal, provided that the articles have cutting teeth, flutes, grooves, or the like, of base metal, which retain their identity and function after the application of the abrasive.

CHAPTER 84

8437 - MACHINES FOR CLEANING, SORTING OR GRADING SEED, GRAIN OR DRIED LEGUMINOUS VEGETABLES; MACHINERY USED IN THE MILLING INDUSTRY OR FOR THE WORKING OF CEREALS OR DRIED LEGUMINOUS VEGETABLES, OTHER THAN FARM-TYPE MACHINERY.

11.1The relevant abstract from HSN with reference to Chapter 8201 is given below:

"The Chapter covers tools which can be used independently in the hand, whether or not they incorporate simple mechanisms such as gearing, crank-handles, plungers, screw mechanisms or levers. Appliances are, however, generally classified in Chapter 84 if they are designed for fixing to a bench, a wall, etc., or if, by reason of their weight or size or the degree offered required for their use, they are fitted with base plates, stands, supporting frames, etc., for standing on the floor, bench, etc. "

11.2The relevant abstract from HSN with reference to Chapter 8437 is given below: "Headings 84.25 to 84.78 cover machines and apparatus which, with certain exceptions, are classified there by reference to the field of industry in which they are used, regardless of their particular function in that field. "

12.On perusal of Chapter Heading 8201 and Note 1 to Chapter 82, it is clear that this heading includes tools which are used in hand like shovels, forks, pruners etc having blade, working edge and working surface and in view of above, appellant products viz. manually operated seed dressing drum, therefore by no stretch of imagination, can be said to be classified under Heading 8201. Further the aforesaid HSN Note reproduced at Para 11.1 clearly lays down that if a machine by reason of their weight or size or the degree offered required for their use, they are fitted with base plates, stands, supporting frames, etc., for standing on the floor, bench, etc., arc to be classified under Chapter 84. Taking aforesaid HSN Notes into account it is obvious that the product will fall under Chapter 84 and not under Chapter 82.

12.1Further, Chapter Heading 8437, as narrated above, includes machines for cleaning sorting or grading seeds, grains or dried leguminous vegetables etc other than farm type machinery, whereas appellants product is clearly said to be a farm type machinery used by farmers during agriculture to cover, coat and treat chemicals on seeds before sowing, which is not covered under Chapter Heading 8437 of the Customs Tariff

Act, 1975.

13.The GAAR in its ruling held that appellant's product is classifiable under Chapter Heading 8436 under Tariff Item 84368090 to which appellant has submitted in their appeal before this authority that basic fact and necessity of HSN code 8436 which includes various agriculture machineries fitted with mechanical or thermal equipment; and that machinery under HSN code 8436 operates with use of additional power of mechanical or thermal kind whereas their product i.e. manually operated seed dressing drum is not fitted with any mechanical or thermal equipment but it is rotated with hand and opened or closed with hand and therefore, cannot be classified under HSN 8436. For reference, Chapter Heading 8436 of Customs Tariff Act. 1975 is mentioned below:

8436	OTHER AGRICULTURAL, HORTICULTURAL, FORESTRY, POULTRY-KEEPING OR BEE-KEEPING MACHINERY, INCLUDING GERMINATION PLANT FITTED WITH MECHANICAL OR THERMAL EQUIPMENT; POULTY INCUBATORS AND BROODERS:
8436 10 00	Machinery for preparing animal feeding stuffs Poultry-keeping machinery; poultry incubators and brooders:
8436 21 00	Poultry incubators and brooders
8436 29 00	Other
8436 80	Other machinery:
8436 80 10	Germination plant fitted with mechanical and thermal equipment:
8436 80 90	Other

13.1The following explanatory note is provided in HSN explaining the scope of Chapter heading 8436:

"The heading covers machinery, not falling in headings 84.32 to 84.35, which is of the type used on farms (including agricultural schools, co-operatives or testing stations), in forestry, market gardens, or poultry-keeping or bee-keeping farms or the like. However, it excludes machines clearly of a kind designed for industrial use. "

"These include :

(A) Seed dusting machines usually consisting of one or more hoppers feeding a revolving metal drum in which the seeds are coated with insecticidal or fungicidal powders.

However, the heading excludes powder spraying machines (heading 84.24). "

From the explanatory notes to HSN 8436, which explains the scope of the entry, it is found that, other agricultural machinery includes Seed dusting machines consisting of a revolving drum in which the seeds are coated with insecticidal or fungicidal powders. The appellant have mentioned in their appeal, inter-alia, that their machinery is used to cover and coating of chemicals over seeds or grains before sowing to increase their germination and immunity against disease. Further the product in question is an agricultural machinery, and the same is a farm-type machinery. . Thus there is thus no doubt that the product in question is covered under heading 8436. Moreover heading 8437 specifically excludes 'farm-type machinery', further strengthening the classification of subject goods under heading 8436.

13.2The appellant's product viz. manually hand operated seed dressing, coating and treating drum is covered within the description provided under the HSN Code 8436. The appellant's product in its use as well as its function is as described under the said HSN code. Therefore, we find that the GAAR has correctly classified the product in question under Chapter Heading 8436 and tariff item 8436 80 90.

14.In view of the foregoing, we reject the appeal filed by appellant M/s. Adarsh Plant Protect Ltd and uphold the Advance Ruling No. GUJ/GAAR/R/25/2021 dated 09.07.2021 of the Gujarat Authority for Advance Ruling.

(Milind Torawane)

(Vivek Ranjan)

Member (SGST)

Member (CGST)

Place : Ahmedabad

Date: 26.08.2022.

Note: The provisions of both the Central GST Act, 2017 and the Gujarat GST Act, 2017 are similar. Therefore, unless a mention is specifically made, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

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