



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH

Goods and Service Tax

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Commissioner of State Tax (Member)
2. Sri. RV Pradhamesh Bhanu, Joint Commissioner of Central Tax (Member)

AAR No.06 /AP/GST/2022 dated:21.03.2022

1	Name and address of the applicant	M/s. Coastal Fats & Oils Pvt Ltd Survey No.33/2 Old Guntur Road Ozili Village, Sri Potti Sri Ramulu Nellore - 524402
2	GSTIN	37AAECC4570E1ZS
3	Date of filing of Form GST ARA-01	30.07.2021
4	Personal Hearing	21.10.2021
5	Represented by	A.V.S. Krishna Mohan, Advocate
6	Jurisdictional Authority - State	Assistant Commissioner (ST) Gudur Circle, Nellore Division
7	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;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub - section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST 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 would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Coastal Fats & Oils Private Limited (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Fact of case

The applicant (M/s. Coastal Fats & Oils Private Limited, ozili) is manufacturer of 'spent earth oil'. The solvent extracted spent earth oil is used in the manufacturing of soaps and Poultry feeds. The main input used in manufacturing of spent earth oil is 'spent earth' which is taxable at 18% under the GST Act.

The process of manufacture of 'Spent Earth Oil':

- 'Spent Earth Oil' is residual vegetable oil recovered from **Spent Bleaching Earth** (SBE) commonly known as Spent Earth. Spent Earth is a mixture of clay minerals and vegetable oil. It is obtained as a solid waste from the edible oil refining industry.
- The clay present in bleaching earth absorbs colour pigments and impurities from edible oil. Thus, spent earth also contains residual oil entrained in it in the range of 30 to 50% by weight. The entrained oil is spread in the form of a thin film spread over the surface area of the clay particles. The entrained oil in SBE is recovered by solvent extraction process using food grade Hexane.

The applicant, seeking clarification on the rate of tax of 'solvent extracted spent earth oil', had filed an application in form GST ARA-01 dated 19.07.2021 by paying required amount of fee.

4. Questions raised before the authority:

What is the Rate of Tax on solvent Extracted spent Earth oil?

On Verification of basic information of the applicant, it is observed that the applicant is under State jurisdiction, i.e. Assistant Commissioner (ST) Gudur Circle Nellore Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Centre Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

Remarks were received from the Superintendent of Central Tax, Nellore CGST Range-4, stating that spent earth oil merits classification under HSN 1518 0039 on which GST tax rate is 12 % as per Sl.No. 27 of Schedule II of Notification No.1/2017

5. Applicant's Interpretation of Law:

The applicant states that in order to arrive at the HSN code for the classification of goods manufactured, the nature of the commodity 'Spent Earth Oil' is to be examined.

- Spent Earth Oil is recovered from Spent Bleaching Earth, commonly known as Spent Earth.
- Spent Bleaching Earth is by-product of Vegetable oil refinery, Spent Bleaching Earth is used to in the vegetable oil refining process to reduce the colour of the edible oil. In the process the Spent Bleaching earth absorbs 15 to 20 % of some colour pigments and edible oil in to it.
- The oil content absorbed in the Spent Earth is recovered through Solvent Extraction Process using Food grade Hexane.
- Thus the Spent Earth oil recovered from Spent Earth is essentially vegetable oil, which is a raw material input for wide range of industries such as poultry feed manufacturing industries, soap making companies, etc.,
- Solvent Extracted Oil is a Vegetable Oil, not directly used for Human Consumption. It is an industrial input to other industry.

In view of the above, the Spent Earth Oil can be placed under the following HSN Tariff structure: (Central Excise Tariff as on 02-02-2017)

Chapter 15: *Animal or vegetable fats and oils and their cleavage products; prepared vegetable fats; animal or vegetable waxes.*

Heading 1515: "other fixed vegetable fats and oils (including JOJOBA oil) and their fractions, whether or not refined, but not chemically modified other fixed vegetable oils of edible grade namely the following Mango Kernel oil, Mahua oil, Rice Bran Oil; Linseed oil and its factions."

HS Code 151590: "Other-Tobacco seed oil and its fractions, other oil and their fractions, crude oil."

HS Code 15159040: "Other-Technical or industrial uses other than manufacture of foodstuffs for human consumption."

- The commodity specified by HSN Code 15159040 also includes JOJOBA Oil which is not edible. Thus, the property of edibility is not a sine qua non for a commodity to be classified under the HSN Code 15159040. The expression "But not chemically modified other fixed vegetable grade....." only excludes certain edible grade vegetable oils from this classification but not the residual vegetable oil recovered by recycling SBE.
- As per entry no. 87 of schedule I of Notification No.1/2017-Central Tax (Rate) dated 28/06/2017 and corresponding SGST notification, all vegetable oils, edible or not, as long as they are not chemically modified are taxable @5% only. The above entry includes the 'residual vegetable oil' recovered by recycling SBE.
- In view of the above, the applicant claims that the residual vegetable oil recovered by recycling SBE by M/s. Coastal Fats & Oils Private Limited, is classifiable under the HSN Code 15159040 and the applicable rate of tax under the GST Act 2017 is 5%.

6. Remarks from Revenue:

- The taxpayer is the manufacturer and supplier of "Spent Earth Oil" for which the input is "Spent Bleaching Earth/Spent Earth". Spent Earth is a mixture of clay minerals and vegetable oil which is a waste emerged out of edible oil industry. Spent Earth is a solid waste material that is generated as part of the bleaching aspect of the Physical Refining process in the Vegetable Oil Industry. This Bleaching is done solely to reduce the color of the Oil. The naturally occurring Bleaching Earths such as Bentonite or Montmorillonite is used to increase the absorption capacity when activated with sulphuric acid.
- The taxpayer explained usage of the said product is in the manufacturing of Soaps and Poultry Feeds. Hence, the Spent Earth Oil cannot be said as that of edible. Hence, it may be construed as 'non-edible'. The taxpayer intends to classify the product under HSN: 15159040 and the said heading reads as follows:

"Other fixed vegetable fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified other: fixed vegetable oils of edible grade namely the following: mango kernel oil, mahua oil, rice bran oil"

under GST rate of 5%. But the intended classification of "Spent Earth Oil" under HSN; 15159040 appears to be not correct as the intended use is mentioned as for "Soaps and Poultry Feed". Depending on how the Spent Earth Oil is used, by no stretch of imagination, it can be called as "edible" oil.

- It appears that the said product is inedible and the most appropriate classification would be under HSN: 1518 00 39 and the sub-heading reads as follows:

1518: "Animal Or Vegetable Fats And Oils And Their Fractions, Boiled, Oxidised, Dehydrated, Sulphurised, Blown, Polymerized By Heat In Vacuum Or In Inert Gas Or Otherwise Chemically Modified, Excluding Those Of Heading 1516; Inedible Mixtures Or Preparations Of animal fats or oils or of fractions of different fats or oils of this Chapter, ;not elsewhere specified or included"

1518 00 39: "Animal Or Vegetable Fats And Oils And Their Fractions, Boiled, Oxidized, Dehydrated, Sulphurised, Blown, Polymerised By Heat In Vacuum Or In Inert Gas Or Otherwise Chemically Modified, Excluding Those Of Heading 1516; Inedible Mixtures Or Preparations Of Animal Or Vegetable Fats Or Oils Or Of Fractions Of Different Fats Or Oils Of This Chapter, Not Elsewhere Specified Or Oxidized, Included ? Animal Or Vegetable Fats And Oils And Their Fractions, Boiled, Dehydrated, Sulphurised, Blown, Polymerized By Heat In Vacuum Or In Inedible Inert Gas Mixtures Or Otherwise Or Chemically Modified, Excluding Those Of Heading 1516; Fractions Of Different Preparations Of Animal Or Vegetable Fats Or Oils Or Of Fats Or Oils Of This Chapter, Not Elsewhere Specified Or Included :Other Vegetable Oil And Its Fats Other"

Rate of GST: 12% [SI.No.27 of Schedule-II to Notification 28.06.2017 as No.1/2017-C.T.(Rate), dated: amended], but not 5% as claimed by the taxpayer. Thus, Spent Earth Oil merits classification 1518 0039 with GST Rate @ 12% as per SI.No.27 of Schedule-II of Notification No.1/2017-C.T.(Rate), dated:28-06-2017, as amended.

7. Personal Hearing:

The authorised representatives of the applicant Sri A.V.S. Krishna Mohan, Advocate & Sri S. Chakra Ramana appeared for Personal Hearing on 21.10.2021 and reiterated the submissions already made in the application.

8. Discussion and Findings:

We have examined the issues raised in the application. The taxability of the goods supplied or to be supplied, as governed under the provisions of respective GST Acts are examined to decide the question involved in the present Ruling. As seen from the application, the applicant is engaged in the recovery of vegetable oil from spent bleaching earth through extraction process.

- Before we delve into the classification and taxability of the product, Spent Earth Oil, we look into the general process of refining that involves in the vegetable oil refining industries. Vegetable Oils undergo numerous refining steps in order to remove undesirable compounds and produce high quality, stable commercial products. In the process of refinement of Crude Palm Oil (CPO), as a part of pre-treatment, degumming and bleaching processes are taken up using Bleaching Earth. Bleaching Earth is a very fine powder and its main component is silicon dioxide. It is used to absorb dark colour matter and odour-causing substances like, metals gums, Oxidised products, residual gum and colour in crude vegetable oils. The Spent Bleaching Earth (SBE) engrosses about 0.5 % by weight of oil in the process. To lower the cost in Oil processing industry, the residual oil in Spent Bleaching Earth is recovered and reused for application in various other industries. Finally, to sum up, the spent earth oil recovered from Spent Earth can as well be considered as 'vegetable oil' as it is nothing but the residual vegetable oil trapped in the spent bleaching earth.

- Now we look into the classification of the product, Spent Earth Oil. Chapter 15 broadly classifies vegetable oils as presented below:

CHAPTER 15

Animal, vegetable or microbial fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes

1515- *Other fixed vegetable or microbial fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified*

1516- *Animal, vegetable or microbial fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared*

1517- *Margarine; edible mixture or preparations of animal, vegetable or microbial fats or oils or of fractions of different fats or oils of this chapter, other than edible fats and oils or their fractions of heading 1516.*

1518- *Animal, vegetable or microbial fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal, vegetable or microbial fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included.*

- When we observe the above series of headings, the detailing in the characteristics of the substances make them fall in different categories. In the instant case, the applicant claims that the spent earth oil merits classification under Heading 1515, while the Revenue argues that it deserves to be classified under Heading 1518.

To start with, we examine the Heading 1515, whether spent earth oil is covered under 'other **fixed vegetable** or microbial **fats and oils and their fractions**'.

Generally, Oils which are obtained from one or more plant parts such as root, stem, bark, leaves, flowers, seeds, fruits, and any other part of the plant are called plant oils. Oils obtained from the plant can be broadly classified into two: fixed (vegetable oils) and essential oils.

Fixed oils or vegetable oils: Oils that are derived from seeds, nuts, and vegetables are fixed oils. Fixed oils are also called vegetable oils. They are obtained from the oil seeds. Fixed or vegetable oils are esters of fatty acids, dense and non-volatile.

Example of vegetable oils is olive oil, almond oil, coconut oil, sunflower oil.

Vegetable oils are used for various purposes. They are used as edible oil for cooking, as industrial raw materials, and feedstock for producing many useful products. The term fixed oils are frequently interchangeable with vegetable oils.

Essential oils: Oils that are obtained from plant parts other than seeds. They are obtained from the leaves, roots, bark, and other aromatic portions of a plant. These oils are volatile and can evaporate easily. Some examples of essential oils are Tea Tree, Rosemary, and Peppermint. Essential oils are aromatic and used in the cosmetic industry.

Now, the spent earth oil, which is extracted from spent bleaching earth cannot be classified under 'fixed vegetable oils', as it is not a direct extract from oilseeds. Hence the claim of the applicant under Heading 1515 is untenable.

- Coming to Heading 1516, it covers

"Animal, vegetable or microbial fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared".

Now, we examine whether spent earth oil undergoes the processes of **hydrogenation**, partly or wholly, **inter-esterification**, **re-esterification** or **elaidinised**.

Hydrogenation converts **liquid vegetable oils into solid or semi-solid fats**, such as those present in margarine. Changing the degree of saturation of the fat changes some important physical properties, such as the melting range, which is why liquid oils become semi-solid.

The inter-esterification process is used to modify the physical properties of the oil or fat blend by rearranging the fatty acid groups within and between the different triglycerides. It is applied directly to naturally derived oils or fats, or to hydrogenated or fractionated oils. Inter-esterification changes the distribution and positions of fatty acids within and among triglycerides to change the physical properties and behaviors of oil.

Re-esterification is a process that removes the artificially induced alcohol in chemically modified ethyl ester to create a more natural form of omega-3 fatty acids that is not only better tolerated with less gastrointestinal side effects but also better absorbed than omega-3 fatty acids in the ethyl ester.

Elaidinization is any chemical reaction which convert a cis- olefin to a trans- olefin in unsaturated fatty acids. This is often performed on fats and oils to increase both the melting point and the shelf life without reducing the degree of unsaturation.

A detailed examination of the above processes prove that the spent earth oil is out of this category and doesn't undergo either of the above processes as mentioned in heading 1516.

- Pursuing it further, we probe into the possibility of classifying it under heading 1517, which deals with

'edible mixture or preparations of animal, vegetable or microbial fats or oils or of fractions of different fats or oils of this chapter'

The spent earth oil is neither a mixture of vegetable oils nor a preparation of the oils or fractions of different oils and thus the possibility of falling under the heading 1517 is completely ruled out.

- Finally, we scrutinize the heading 1518, which finds place at Sl. No 90 of Schedule I at 5 % rate and Sl.No. 27 of Schedule II at 12% of notification No. 01/2017 Central Tax (Rate) Dt.28.06.2017 as presented below.

S.No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	Tax Rate
90	1518	Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516	5 %

27	1518	Animal fats and animal oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included	12 %
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Before deciding upon the classification entry, we examine the Solvent extraction method in brief as prevalent in the industry.

Recovery of oil adsorbed in the spent bleaching earth (SBE) is extracted by solvent extraction method using hexane as the solvent. The extracts obtained from the process will be filtered and the solvent will be removed under reduced pressure and at defined temperature in a rotary evaporator. In this extraction method, it is very vital to choose the most suitable solvent for extracting the targeted components because different solvent polarity will dissolve different compounds. The boiling point of hexane is 65 °C which makes it used widely as a solvent. After the extraction, the oil-solvent is then separated between the oil from hexane which requires large amount of energy. To remove the hexane from crude oil, the miscella (the oil/solvent mixture leaving the solvent extractor is commonly referred to in the industry as 'miscella') is treated in a vacuum distillation process. The hexane evaporated during the distillation is condensed and separated from water in a decanter. The recovered hexane is then reused in the extractor.

In light of the solvent extraction method as cited, we examine the Sl.no 90. The processes adopted as per the entry are boiled, oxidised, dehydrated, sulphurised, **blown**, polymerised **by heat** in vacuum or **in inert gas** or otherwise chemically modified. In the instant case, Spent Earth Oil is obtained/ extracted by or blown by heat at certain temperatures, in the presence of food grade solvent **Hexane, which is an inert gas**. Hence, the processes indicated above apply to the present case on hand.

Coming to the Sl.no 27, the first limb of the entry deals with 'Animal fats and animal oils', which is irrelevant to the case at hand, as it's a vegetable oil. The 2nd Limb of the entry covers,

"Inedible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included".

The Revenue argues that the second limb is applicable to the present case that spent earth oil is inedible in nature as it's end use is intended for 'soaps and poultry feed'. But, as a matter of fact, the above entry describes 'inedible mixtures or preparation of Vegetable fats or Oils'. Considering the basic characteristics of the spent earth oil, it's merely a vegetable oil extracted from spent earth and it is certainly neither a 'mixture of vegetable oils' nor 'a preparation of vegetable oils'. Even more, it becomes immaterial in the present context, whether it's further qualified by the parameter of being 'inedible' or not. On this premise, we differ with the argument of Revenue regarding the entry no 27. Finally, we come to a conclusion that 'spent earth oil' merits classification under Heading 1518, for the reasons explained above, and taxable at 5 % as per Sl.No.90 of Schedule I of notification No. 01/2017 Central Tax (Rate) Dt.28.06.2017.

RULING

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

Question: What is the Rate of Tax on solvent Extracted spent Earth oil?

Answer: The solvent Extracted spent Earth oil is taxable at 5 % as per Sl.No. 90 of Schedule I of notification No. 01/2017 Central Tax (Rate) Dt.28.06.2017.

Sd/-D. Ramesh
Member

Sd/-R.V Pradhamesh Bhanu
Member

// t.c.f.b.o //


Deputy Commissioner (ST)

DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

To

1. M/s. Coastal Fats & Oils Pvt Ltd Survey No33/2 Old Guntur Road Ozili Village, Sri Potti Sri Ramulu Nellore – 524402 **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Gudur Circle, Nellore Division. **(By Registered Post)**
2. The Superintendent, Central Tax, CGST Nellore-4 Range, Nellore Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035.A.P. **(By Registered Post)**

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