



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, Additional Commissioner of State Tax (Member)
2. Sri. A. Syam Sundar, Additional Commissioner of Central Tax (Member)

AAR No. 13 /AP/GST/2021 dated: 26.02.2021

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| 1 | Name and address of the applicant | M/s. Crux Biotech India Pvt Ltd, Sy.No.529 to 531, Peddavaram Village, Nandigama Mandal, Krishna District, Andhra Pradesh. |
| 2 | GSTIN | 37AAECC1707B1Z9 |
| 3 | Date of filing of Form GST ARA-01 | 15.12.2020 |
| 4 | Hearing (Virtual) | 05.02.2021 |
| 5 | Represented by | M/s. K. Venkata Reddy & Associates, Chartered Accountants |
| 6 | Jurisdictional Authority - State | Assistant Commissioner(ST), Nandigama Circle, Vijayawada Division. |
| 7 | Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised | b) applicability of a notification issued under the provisions of this Act; and |

ORDER

(Under sub-section (2) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (2) 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. Crux Biotech Pvt Ltd. (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

- M/s. Crux Biotech India Private Limited (CBIPL) is engaged in the manufacture of Extra Neutral Alcohol (ENA) with licensing capacity of 75 KLPD as permitted by the Government of Andhra Pradesh.
- The residue generated from the manufacturing process of ENA/RS has a shelf life of less than 24 hours. The unit further processes the said residue which results in manufacture of "feed supplement".
- The feed supplement produced can be either used as cattle feed directly or is used in the manufacture of cattle feed/ fish feed.
- The manufacturing process of feed supplement requires the additional plant and machinery, power, steam, time lines and manpower for processing.
- The broken rice and the maize are the core raw materials used in the manufacturing process of ENA. The emerged new by-product contains different biological characteristics than that of the raw materials being used in the process.
- The feed supplement i.e., Distillery Dry Grains Soluble (DDGS) and Distillery Wet Grains Soluble (DWGS) (Cattle feed) contains high protein content and minerals for the sustained growth of animals and fish.
- The applicant approached this authority to seek clarification on taxability of residue products of DDGS/DWGS and its appropriate HSN Code.

4. Question raised before the authority:

What is the accurate HSN Code under GST tax slabs for Distillery Dry Grains Soluble (DDGS) and Distillery Wet Grains Soluble (DWGS) (Cattle feed)?

- The Contention of the applicant is that, earlier Central Excise Duty was paid at NIL rate under CETA 2309 and the introduction of GST cannot alter the classification of the by-product.



- On Verification of basic information of the applicant, it is observed that the applicant is under State jurisdiction, i.e. Assistant Commissioner (ST), Nandigama Circle, Vijayawada Division. The application has been forwarded to the jurisdictional officer with a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017 and accordingly the remarks are obtained from the officer concerned.

Remarks of the Jurisdictional Officer:

- The State jurisdictional officer concerned, submitted that DRC-01A dated 10.12.2020 had been issued to the applicant intimating the tax amount ascertained as being payable under section 73(5) /74(5) read with Rule 142(1A).
- The applicant claimed exemption on supply of its by-products DDGS/WDGS (Wet cake) under HSN Code 2309, which describes,
"Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than rice-bran]" as nil rated.
- The Jurisdictional officer has taken a different view that the tax payer is manufacturer of IMFL/ENA and therefore it is a brewing/ distillery unit and the residues specifically come under the HSN Code 2303, which describes,
"Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets" and taxable @ 5%.
- The jurisdictional officer issued DRC-01A with the amount of tax payable as Rs. 4,67,80,779/- on DDGS/ DWGS sale turnovers for the period encompassing July 2017 to October 2020.
- Subsequently inspection had been conducted by the jurisdictional officer on 16.10.2020 basing on the authorisation issued by the Joint Commissioner (ST), Vijayawada-I Division.
- The Jurisdictional officer remarked that the applicant had approached the Advance Ruling authority after the initiation of the proceedings against him in contravention of the proviso to section 98(2) of APGST Act.



6. Virtual Hearing:

The proceedings of Hearing were conducted through video conference on 05th February, 2021, for which the authorized representative from M/s. K. Venkata Reddy & Associates, Chartered Accountants attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application and the submissions of the applicant as well. In the context of the remarks submitted by the jurisdictional officer, we examine the admissibility of the application without going into the merits of the case.

It is evident from the application that the applicant approached the Authority for Advance Ruling on an issue which has already been pending with the proper officer.

It bars this authority to take up or admit an application which has been already pending or decided in any proceedings in case of the applicant under any of the provisions of the Act under proviso to section 98(2), which reads as under,

"(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised

in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:"

Hence, the applicant's plea for admission of his application for advance ruling in terms of proviso of sub section (2) of section 98 of CGST Act, 2017 is rejected.

Proceedings

In view of the foregoing, the application is not admitted.

Sd/-D. Ramesh
Member

Sd/-A. Syam Sundar
Member

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



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

To

1. M/s. Crux Biotech Pvt Ltd., Sy No. 529 to 531, Peddavaram Village, Nandigama Mandal, Krishna District, Andhra Pradesh **(By Registered Post)**
2. M/s. Crux Biotech Pvt Ltd, H.No.8-3-222/C/1, A-26, Madhuranagar, Ameerpet, Hyderabad-500 038, Telangana State. **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Nandigama Circle, Vijayawada I Division.
(By Registered Post)
2. The Superintendent, Central Tax, CGST Jaggaiahpet Range, Amaravathi 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 Chief Commissioner (Central Tax), O/o 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.

