

GUJARAT AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.



ADVANCE RULING NO. GUJ/GAAR/R/53/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/19)

Date: 30.07.2020

Name and address of the applicant	:	M/s. Narendrakumar Manilal Patel, (National Health Care), 5/4, Anand Estate, Revabhai Estate, CTM, Amraiwadi, Ahmedabad-380026.
GSTIN of the applicant	:	24AJXPP5154E1ZV
Date of application	:	11.03.2019.
Clause(s) of Section 97(2) of CGST /GGST Act, 2017, under which the question(s) raised.	:	(b)Applicability of a notification issued under the provisions of this Act;
Date of Personal Hearing	:	02.07.2020 (Through Video Conferencing)
Present for the applicant	:	Shri Samir M. Patel.

B R I E F F A C T S

The applicant M/s. Narendrakumar Manilal Patel (National Health Care) vide their application for Advance Ruling has submitted that they are engaged in the manufacture and trading of Urine collection bags falling under HSN Code 90189099. They have stated that the Urine collection bags are covered under Serial No. Entry (8) of List 3 of Entry 257 of Schedule-I of Notification No:01/2017-Central Tax (Rate) dated 28.06.2017 attracting GST at the rate of 5%; that the subject goods is for disabled in the nature of Urine collection bags falling under HSN Code 90189099; that corresponding Column (3) to Entry No.257 of Schedule-I of the aforementioned Notification reads as “Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3 appended to this Schedule”; that on a plain reading of entry at Serial No.E(8) of List 3 of Entry 257 of Schedule-I and General Entry at Serial No.218 of Schedule-II of Notification No.01/2017-Central Tax (Rate), it is evident that Urine collection bags are specifically covered under the entry at Serial No.E(8) of List 3 of Entry 257 of Schedule I whereas the entry at Sr.No.218 of Schedule-II is a general entry that covers all instruments and appliances used in medical, surgical, dental or Veterinary sciences including scientigraphic apparatus, other electro medical and sight-testing instruments and the GST liability under the said heading is 12% (6% SGST + 6% CGST).

2. The applicant have further stated that for the purpose of classification and the determination of applicable rate for a supply of goods under the CGST Act, 2017, the various Chapter Headings, sub-headings, Interpretative Rules and Chapter Notes under the Customs Tariff Act, 1975 has been adopted by Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 and the explanation appended to the above Notification reads as follows:

“(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.”

2.1. The applicant has further stated that accordingly, the appropriate classification as determined under the Customs Tariff Act, 1975 including on an application of the Chapter Notes and General Explanatory Notes, would apply for the purpose of levy of GST. As per Rule 3 of the General Rules for Interpretation of Import Tariff the heading that provides the most specific description shall be preferred to headings providing a more general description. Rule 3 reads as follows:

“Rule 3 – When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows: (a) The heading which provides the most specific description shall be preferred to headings providing a more general description.”

2.2. The applicant has also stated that in view of the above, Urine collection bags are clearly and most specifically covered under Sr.No.E(8) of List 3 of Entry 257 of Schedule-I attracting 5% GST; that there is a similar entry under Sr.No.578-List 30 of Entry E(8) of Notification No.50/2017-Customs dated 30.06.2017 where the effective rate of Basic Customs Duty is NIL and the entry is reproduced below:

Sr.No.	Chapter/Sub-heading	Description of goods	Standard rate
(1)	(2)	(3)	(4)
578	90 or any other Chapter	Assistive devices, rehabilitation aids and other goods for disabled, specified in List 30	NIL

List 30: (See S.No.578 of the Table).

E(8) External catheters, special jelly cushions to prevent bed sores, stair lift, urine collection bags.

2.3. The applicant has stated that on a plain reading of E(8) of List 3 of Entry 257 of Schedule I and entry at Serial No.218 of Schedule II of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017, it is evident that Urine collection bags are specifically covered under the entry at Serial No.E(8) of List 3 of Entry 257 of Schedule I whereas the entry at Sr.No.218 of Schedule-II is a general entry that covers all instruments and appliances used in medical, surgical, dental or Veterinary sciences including scientigraphic apparatus, other electro medical and sight-testing instruments and the GST liability under the said heading is 12% (6% SGST + 6% CGST). Therefore, applying the principle under Rule 3 of the General Rules of Interpretation of the First Schedule to the Customs Tariff Act, 1975, the heading which provides the most specific description shall be preferred to headings providing a more general description. Hence the Urine collection bag falling under HSN Code 9018 are covered under Serial No.E(8) of List 3 of Entry 257 of Schedule I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 attracting GST at the rate of 5%.

3. The applicant has submitted letter dated 22.07.2020 vide which they have attached the following documents:

- (i) Doctor's opinion regarding usage of Urine Collection Bag (from 7 doctors).
- (ii) Photocopies of 2 invoices in respect of Urine Collection Bags.
- (iii) Catalogue of National Healthcare.
- (iv) Annexure-A showing list of raw materials used in manufacture of Urine Collection Bags.
- (v) Annexure-B containing flow chart regarding manufacture of Urine Collection Bags.
- (vi) Annexure-C showing use of Urine Collection Bags.
- (vii) Balance sheets for the financial years 2017-18 and 2018-19.

3.1 Doctors namely (i) Dr.V.K.Patel, Viral X-ray clinic, Ramol road, Ahmedabad (ii) Dr.Sahdevbhai N.Patel, Narayani Hospital, Deesa (iii) Dr.Suresh N.Thakker, Consultant Urologist and Andrologist, Patan (iv) Dr.Dhiraj R.Sharma, Aanchal Children Hospital, Bapunagar, Ahmedabad and (v) Dr.Vinay Sheth, Vatva General Hospital, Vatva, Ahmedabad have given the following opinion regarding usage of Urine Collection Bags:

“Urine Collection Bags are used as Assistive devices for bedridden patients. A Urine Collection Bag is a medical device used to empty the bladder when a patient is unable to do so naturally. Urine Collection Bags usually have a drainage bag to capture the urine. For bedridden patients, the bag may drape over the side of the bed. The bag can be emptied into the toilet as needed. Intermittent catheterization involves inserting and removing the catheter several times a day. This eliminates the need to wear a continuously draining catheter.”

3.2 Dr.Sudhir.I.Trivedi, Dispensary and Nursing Home, Jashodanagar, Ahmedabad has given the following opinion regarding usage of Urine Collection Bags:

“Urine Bag is used to collect the urine for the following patients:

1. In case of retention of Urine after Catheterization.
2. Post-operative cases which requires 1-3 days rest in bed after catheterization.
3. Obstruction in urinary tract in acute and chronic cases.
4. In case of people in old age confined to bed, to prevent soaking of the bed.

3.3 Dr.Niru Anil Gupta, Gynaecologist of ParthPrasutigruh and Medical Hospital, Krishnanagar, Ahmedabad has given the following opinion regarding usage of Urine Collection Bags.

“Urine Collection Bag is used to collect urine and used as assistive devices for bedridden patients. A Urine Collection Bag is a medical device used to empty the bladder when a patient is unable to do so naturally.”

3.4 As per the catalogue of M/s. National Healthcare submitted by the applicant, National Healthcare is a manufacturer, supplier and exporter of many kinds of Medical devices. The list of the products manufactured and supplied by them are Blood transfusion set, Infusion set(economy), Umbilical clamp, B.T.set Y-site Luer Lock, Infusion Set Vented Microdrip Y-site and Luer Lock, Infusion Set Non Vented, Measure Volume Set(150 ml) with Y-connector Luer Lock, Measure Volume Set(110 ml.) with Y-connector Luer Lock, Surgical Gloves, Medical Urine Bags, Cord Clamp, Infusion Set Non Vented with Y-Connector and Luer Lock, Infusion Set Vented with Y-connector and Luer Lock, Blood Transfusion Set Non Vented, Blood Transfusion Set Vented and IV set.

3.5 As per the submission of the applicant, the raw materials used in the manufacture of Urine Collection Bags are PVC sheets, ink, PVC tube, closure, Hanger or PP stick, cotton thread, connector cover, packing pouch, gross

packing pouch and corrugated box. As per the flow chart given by the applicant, the process of manufacture of Urine Collection Bags is as under:

- (i) Raw materials received from store.
- (ii) High frequency welding of PVC sheet.
- (iii) Bag screen printing by ink.
- (iv) Assembly of non return valve and outlet.
- (v) Welding of non return valve and outlet.
- (vi) Bag leak test by air.
- (vii) Tube, connector cover, hanger assembly with bag.
- (viii) Urine Collection Bag pouch packing.
- (ix) Urine Collection Bag pre inspection.
- (x) Urine Collection Bag sterilization.
- (xi) Secondary inspection and box packing.
- (xii) Transfer to finish goods supply for dispatch.

3.6 As per Annexure-C submitted by the applicant, the uses of 'Urine Collection Bag' are as under:

"Urine Collection Bags are used as Assistive devices for bedridden patients. A Urine Collection Bag is a medical device used to empty the bladder when a patient is unable to do so naturally. Urine Collection Bags usually have a drainage bag to capture the urine. For bedridden patients, the bag may drape over the side of the bed. The bag can be emptied into the toilet as needed. Intermittent catheterization involves inserting and removing the catheter several times a day. This eliminates the need to wear a continuously draining catheter."

3.7 The applicant has also submitted photocopies of 2 sample invoices issued to them by M/s. Pooja Enterprises, Varanasi and M/s. Vishnukrupa Plastics vide which Urine Collection Bags have been supplied to the applicant.

4. The applicant has put forward the following question on which advance ruling is required:

"Whether the goods supplied by the applicant are covered under Serial No.E(8) of List 3 of Entry 257 of Schedule I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017') and corresponding Notifications issued under the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'GGST Act, 2017) and the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the IGST Act, 2017) OR Serial No.218 of Schedule-II of the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 attracting GST rate of 12%."

DISCUSSION&FINDINGS

5. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative Shri Samir M. Patel at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

6. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to similar provisions of the GGST Act.

7. As per the submission of the applicant, they are engaged in the manufacture and supply of many kinds of medical devices including Urine collection bags falling under HSN Code 90189099 which are covered under Serial No. Entry (8) of List 3 of Entry 257 of Schedule-I of Notification No:01/2017-Central Tax (Rate) dated 28.06.2017 attracting GST at the rate of 5%. They have also stated that the subject goods are for disabled in the nature of Urine collection bags falling under HSN Code 90189099 and corresponding Column (3) to Entry No.257 of Schedule-I of the aforementioned Notification reads as “Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3 appended to this Schedule”. He has stated that on a plain reading of entry at Serial No. E(8) of List 3 of Entry 257 of Schedule-I and General Entry at Serial No.218 of Schedule-II of Notification No.01/2017-Central Tax (Rate), it is evident that Urine collection bags are specifically covered under the entry at Serial No. E(8) of List 3 of Entry 257 of Schedule I, whereas the entry at Sr.No.218 of Schedule-II is a general entry that covers all instruments and appliances used in medical, surgical, dental or Veterinary sciences including scientigraphic apparatus, other electro medical and sight-testing instruments and the GST liability under the said heading is 12% (6% SGST + 6% CGST). We have also gone through the opinions given by the various doctors regarding usage of Urine Collection Bags which are as under:

- (a) Opinion of (i) Dr.V.K.Patel, Viral X-ray clinic, Ramol road, Ahmedabad (ii) Dr.Sahdevbhai N.Patel, Narayani Hospital, Deesa (iii) Dr. Suresh N.Thakker, Consultant Urologist and Andrologist, Patan (iv) Dr.Dhiraj R. Sharma, Aanchal Children Hospital, Bapunagar, Ahmedabad and (v) Dr.VinaySheth, Vatva General Hospital, Vatva, Ahmedabad:

“Urine Collection Bags are used as Assistive devices for bedridden patients. A Urine Collection Bag is a medical device used to empty the bladder when a patient is unable to do so naturally. Urine Collection Bags usually have a drainage bag to capture the urine. For bedridden patients, the bag may drape over the side of the bed. The bag can be emptied into the toilet as needed. Intermittent catheterization involves inserting and removing the catheter several times a day. This eliminates the need to wear a continuously draining catheter.”

- (b) Opinion of Dr.Sudhir.I.Trivedi, Dispensary and Nursing Home, Jashodanagar, Ahmedabad:

“Urine Bag is used to collect the urine for the following patients:

1. *In case of retention of Urine after Catheterization.*
2. *Post-operative cases which requires 1-3 days rest in bed after catheterization.*
3. *Obstruction in urinary tract in acute and chronic cases.*
4. *In case of people in old age confined to bed, to prevent soaking of the bed.*

- (c) Opinion of Dr.Niru Anil Gupta, Gynaecologist of Parth Prasutigruh and medical hospital, Krishnanagar, Ahmedabad has given the following opinion regarding usage of Urine Collection Bags.

“Urine Collection Bag is used to collect urine and used as assistive devices for bedridden patients. A Urine Collection Bag is a medical device used to empty the bladder when a patient is unable to do so naturally.”

7.1 We have also gone through the catalogue, the list of raw materials used in the manufacture of Urine Collection Bags, the flow chart showing the manufacturing process of the Urine Collection Bags, photocopies of the 2 sample invoices vide which the applicant has been supplied Urine Collection Bags, uses of Urine Collection Bags as given by the applicant as well as the Balance Sheets submitted by them for the financial years 2017-18 and 2018-19.

7.2 The applicant has put forward the following question on which advance ruling is required:

“Whether the goods supplied by the applicant are covered under Serial No.E(8) of List 3 of Entry 257 of Schedule I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘CGST Act, 2017’) and corresponding Notifications issued under the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘GGST Act, 2017’) and the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the IGST Act, 2017) OR Serial No.218 of Schedule-II of the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 attracting GST rate of 12%.”

8. On going through the submissions given by the applicant as well as the documents submitted by them, we find that they have mentioned that the product ‘Urine collection bag’ manufactured and supplied by them, which are for the disabled would be correctly classifiable under Entry No.257 in Schedule-I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 as there is a specific entry of their product at Sr.No.8 of List 3 to Schedule-I instead of Entry No.218 of Schedule-II of the said Notification which is a general entry.

9. In order to determine the classification of the product ‘Urine collection bags’, we will be first required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 containing the headings, sub-headings as well as the rates of Central Tax GST applicable to various goods, which are covered under 6 schedules as under:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI

Further, Explanation (iii) and (iv) of the said Notification reads as under:

(iii) “Tariff item”, “sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

10. We find that the applicant themselves have submitted that their product ‘Urine collection bags’ falls under the Sub-heading 90189099. But, before examining as to whether the said product is indeed classifiable under the Sub-heading 90189099 (as stated by the applicant), we need to know what a ‘Urine collection bag’ is, why it is used and how it is used. ‘Urine collection bag’ and its uses in common parlance may be understood as hereunder:

“Urine collection bags (or urine drainage bags) collect urine. The bag is attached to a catheter (tube) that is inside the bladder of the individual. An individual may need to have a catheter and a Urine collection bag (or a urine drainage bag) because of reasons such as urinary incontinence (leakage), urinary retention (not

being able to urinate), surgery that made a catheter necessary or any other health problem.

The 'Urine collection bag' is attached to an individual and used as detailed hereunder:

"One end of the catheter is attached to a bag to collect the urine. The other end is inserted into the urethra of the individual and guided through it until it enters the bladder and urine starts to flow. If the individual is not confined to bed, the drainage bag can be worn strapped to his/her leg and hidden under the clothing."

10.1 From the above, it can be confirmed that the 'Urine collection bags' is indeed a device which can be used in the field of medical sciences only. We are therefore required to find out whether the said product falls under the Heading 9018 or otherwise. In order to examine this aspect, we would be required to go through the Heading 9018 as appearing in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), which reads as under:

9018 INSTRUMENTS AND APPLIANCES USED IN MEDICAL, SURGICAL, DENTAL OR VETERINARY SCIENCES, INCLUDING SCIENTIGRAPHIC APPARATUS, OTHER ELECTROMEDICAL APPARATUS AND SIGHT-TESTING INSTRUMENTS

Electro-diagnostic apparatus (including apparatus for functional exploratory examinations or for checking physiological parameters):

9018 11 00 -- Electro-cardiographs

9018 12 -- Ultrasonic scanning apparatus:

9018 12 10 --- Linear ultrasound scanner

9018 12 90 --- Other

9018 13 00 -- Magnetic resonance imaging apparatus

9018 14 00 -- Scientigraphic apparatus

9018 19 -- Other:

9018 19 10 --- Electro encephalographs

9018 19 20 --- Echo cardiograph

9018 19 90 --- Other

9018 20 00 - Ultra-violet or infra-red ray apparatus

- Syringes, needles, catheters, cannulae and the like:

9018 31 00 -- Syringes, with or without needles

9018 32 -- Tubular metal needles and needles for sutures:

9018 32 10 --- Needles for suture

9018 32 20 --- Hollow needles for injection, aspiration, biopsy and transfusion

9018 32 30 --- Hileriovenous fistula needles

9018 32 90 --- Other

9018 39 -- Other:

9018 39 10 --- Catheters (for urine, stool)

9018 39 20 --- Cardiac catheters

9018 39 30 --- Cannulae

9018 39 90 --- Other

- Other instruments and appliances, used in dental sciences:
- 9018 41 00 -- Dental drill engines, whether or not combined u 7.5% -on a single base with other dental equipment
- 9018 49 00 – Other
- 9018 50 - Other ophthalmic instruments and appliances:
- 9018 50 10 --- Ophthalmoscopes.
- 9018 50 20 --- Tonometers
- 9018 50 30 --- Ophthalmic lasers
- 9018 50 90 --- Other
- 9018 90 - Other instruments and appliances:
- Diagnostic instruments and apparatus:
- 9018 90 11 ---- Instrument and apparatus for measuring blood pressure
- 9018 90 12 ---- Stethoscopes
- 9018 90 19 ---- Other
- Surgical tools:
- 9018 90 21 ---- Bone saws, drills and trephines
- 9018 90 22 ---- Knives, scissors and blades
- 9018 90 23 ---- Forceps, forcep clamps, clips, needle holders,
 - introducers, cephalotribe bone holding and other holding instruments
- 9018 90 24 ---- Chisel, gauges, elevators, raspatonesosteotome, craniotome, bone cutters
- 9018 90 25 ---- Retractors, spatulaprobes, hooks dialators, sounds, mallets
- 9018 90 29 ---- Other
- Renal dialysis equipment, blood transfusion apparatus and haemofiltration Instruments.
- 9018 90 31 ---- Renal dialysis equipment (artificial kidneys, kidney machines and dialysers)
- 9018 90 32 ---- Blood tranfusion apparatus
- 9018 90 33 ---- Haemofiltration instruments.
- Anesthetic apparatus and instruments, ENT precision instruments, acupuncture apparatus, and endoscopes:
- 9018 90 41 ---- Anesthetic apparatus and instruments.
- 9018 90 42 ---- ENT precision instruments.
- 9018 90 43 ---- Acupuncture apparatus
- 9018 90 44 ---- Endoscopes
- Other:
- 9018 90 91 ---- Hilerial or venous shunts
- 9018 90 92 ---- Baby incubators
- 9018 90 93 ---- Heart-lung machines
- 9018 90 94 ---- Defibrillators

9018 90 95 ---- Fibrescopes

9018 90 96 ---- Laproscopes.

9018 90 97 ---- Vetrasonic lithotripsy instruments

9018 90 98 ---- Apparatus for nerve stimulation

9018 90 99 ---- Other

10.2 Also, the explanatory notes to the Harmonized Commodity Description and Coding System with respect to Sub-heading 9018 (which contains an illustrative list of all the products falling under the sub-heading No.9018) and may help us in understanding the products covered under the said heading are described thereunder. Portions of notes pertaining to Dental instruments and appliances and Veterinary instruments and appliances have not been described, as 'Urine collection bags' would not, by any stretch of imagination, be covered under these headings. Further, parts and accessories have also not been described as they pertain to objects like electro-diagnostic ultrasonic scanning apparatus (SH-9018.12), electro-diagnostic magnetic resonance imaging apparatus (SH-9018.13) and electro-diagnostic apparatus (SH-9018.14). The explanatory notes read as under:

"This heading covers a very wide range of instruments and appliances which in the vast majority of cases are used only in professional practice e.g. (by doctors, surgeons, dentists, veterinary surgeons, midwives) either to make a diagnosis, to prevent or treat an illness or to operate etc, Instruments and appliances for anatomical and autoptic work, dissection etc. are also included as are under certain conditions, instruments and appliances for dental laboratories. The instruments of the heading may be made of any material (including precious metals).

The heading does not cover:

- (a) *Sterile catgut and other sterile material for surgical sutures, sterile laminaria and sterile laminariatents.(heading 30.06).*
- (b) *Diagnostic or laboratory regents of heading 38.22.*
- (c) *Hygienic or pharmaceutical articles of heading 40.14.*
- (d) *Laboratory, pharmaceutical or hygienic glassware of heading 70.17.*
- (e) *Sanitary ware of base metal (in particular, headings 73.24, 74.18 and 76.15).*
- (f) *Manicure or pedicure sets and instruments (heading 82.14).*
- (g) *Carriages for disabled persons (heading 87.13).*
- (h) *Spectacles, goggles and the like, corrective, protective or other (heading 90.04).*
- (i) *Photographic cameras (Heading 90.06)unless incorporated permanently in the instruments or appliances of this heading.*
- (j) *Microscopes etc. of heading 90.11 or 90.12.*
- (k) *Disc calculators used for calculating lung function, body mass index, etc. of heading 90.17.*
- (l) *Mechano-therapy, oxygen therapy, ozone therapy, artificial respiration, aerosol therapy, message apparatus etc. of heading 90.19.*
- (m) *Orthopaedic appliances, artificial parts of the body and fracture appliances, including those for animals (heading 90.21).*
- (n) *X-ray apparatus (whether medical or not) of heading 90.22.*
- (o) *Clinical thermometers (Heading 90.25).*
- (p) *Instruments and appliances used in laboratories to test blood, tissue fluids, urine etc., whether or not such tests serve in diagnosis (generally heading 90.27).*
- (q) *Medical or surgical furniture, including that for veterinary use (operating tables, examination tables, hospital beds, dentists chair not incorporating dental appliances of this heading etc. (heading 94.02).*

10.3 On the other hand, this heading includes specialised measuring instruments used exclusively in professional practice, such as cephalometers, dividers for measuring cerebral lesions, obstetrical pelvimeters etc. It should also be noted that a number of the instruments used in medicine or surgery (human or veterinary) are, in effect, tools (e.g. hammers, mallets, saws, chisels, gouges, forceps, pliers, spatula, etc.), or articles of cutlery (scissors, knives, shears etc.). Such articles are classified in this heading only when they are clearly identifiable as being for medical or surgical use by reason of their special shape, the ease with which they are dismantled for sterilisation, their better quality manufacture, the nature of the constituent metals or by their get-up (frequently packed in cases or boxes containing a set of instruments for a particular treatment: childbirth, autopsies, gynaecology, eye or ear surgery, veterinary cases for parturition etc.). The instruments and appliances classified here may be equipped with optical devices; they may also make use of electricity, either as motive power or for transmission, or as a preventive, curative or diagnostic agent. This heading also covers instruments and appliances operated by laser or other light or photon beam processes and ultrasonic instruments and appliances.

INSTRUMENTS AND APPLIANCES FOR HUMAN MEDICINE AND SURGERY:

This group includes:

(A) Instruments which may be used under the same names for several purposes (for example):

- (i) Needles (for sutures, ligatures, vaccination, blood tests, hypodermic needles etc.)
- (ii) Lancets (for vaccination, blood letting etc.).
- (iii) Trocars (for puncturing) (gall bladder, general purpose etc., types).
- (iv) Surgical knives and scalpels of all kinds.
- (v) Sounds (prostatic, bladder, urethral etc.).
- (vi) Specula (nasal, mouth, laryngeal, rectal, vaginal etc.)
- (vii) Mirrors and reflectors (for examining eye, larynx, ear etc.).
- (viii) Scissors, shears, pliers, forceps, chisels, gouges, mallets, hammers, saws, scrapers, spatula.
- (ix) Cannulae, catheters, suction tubes etc.
- (x) Cauteries (thermo, micro, galvano etc.).
- (xi) Tweezers, dressing, swab, sponge or needle holders (including radium needle holders).
- (xii) Retractors (lip, jaw, abdominal, tonsil, liver etc.).
- (xiii) Dilators (laryngeal, urethral, oesophageal, uterine etc.).
- (xiv) Wire guides used for the placement for catheters, needles, tissue dilators, endoscopes, and atherectomy devices.
- (xv) Clips, (suture etc).
- (xvi) Syringes (glass, metal, glass and metal, plastics etc.) of all kinds e.g. injection puncture, anaesthesia, irrigation, wound washing, suction (with or without pump), eye, throat, uterine, gynaecological etc.
- (xvii) Surgical staplers for inserting staples to close a wound.

(B) Special Diagnostic instruments and apparatus:

These include:

- (i) Stethoscopes.
- (ii) Instruments to measure rate of breathing (to determine basal metabolism.).
- (iii) Sphygmomanometers, tensiometers, oscillometers, (to measure blood pressure).
- (iv) Spirometers (to assess lung capacity).
- (v) Cephalometers.
- (vi)** Pelvimeters.

(C) Ophthalmic instruments: These fall into various categories:

- (i) Surgical instruments** such as corneal trephines, keratomes.
- (ii) Diagnostic instruments** such as ophthalmoscopes; binocular loupes with head bands and binocular type microscopes, consisting of a microscope, an electric lamp with a slit, and a head rest, the whole being mounted on an adjustable support, for the examination of the eyes; tonometers (for testing the intra-ocular tension) eye specula.
- (iii) Orthoptic or sight setting apparatus** including ambyloscopes, retinoscopes, skiascopes, strabometers, keratometers, keratoscopes, eye measurement meters designed to measure the distance between the pupils, trial cases (of lenses) and trial frames (for carrying the trial lenses), optometric scales, test charts. However, optometric scales and charts on paper, paperboard or plastics, used for colour perceptions are excluded. (Chapter 49).

This heading also covers electrically heated compresses for the eyes, and electromagnets designed for removing metallic particles from the eyes.

(D) Ear instruments e.g. auriscopes. However tuning forks, whether or not for medical use are excluded (heading 92.09).

(E) Anaesthetic apparatus and instruments (Face masks, face-piece harness, intratracheal tubes etc.).

(F) Instruments for nose, throat or tonsil treatment: clamps (for straightening the nasal cartilage); transillumination apparatus (for sinuses and nasal fossae); tonsillotomes, guillotines; direct laryngoscopes, laryngeal brushes etc.

(G) Pharyngeal, oesophageal, stomach or tracheotomy instruments: oesophagoscopes, bronchoscopes, stomach pumps, intubation tubes etc.

(H) Urinary canal or bladder instruments: urethrotomes, lithotripsy instruments, bladder grid suction apparatus, instruments for prostaticotomy.

(I) Artificial kidney-dialysis apparatus.

(J) Gynaecological or obstetrical instruments: vaginal retractors; hysterectomy instruments; Obstetrical stethoscopes; specialised optical instruments for examination of the genital organs; forceps; perforators; embryotomy instruments (for dissection of the foetus); cephalotribs and cranioclasts (instruments to crush the head of a child which has died in the uterus); instruments for taking internal measurements etc.

(K) Portable pneumo thorax apparatus, blood transfusion apparatus, artificial leeches. The heading also covers sterile hermetically sealed containers of plastics, from which air has been evacuated but containing a small quantity of anti-coagulant and fitted with an integral donor tube and a phlebotomy needle, used for the collection, storage and transfusion of whole human blood. However, special blood storage bottles of glass are excluded (heading 70.10).

(L) Chiropodists electric grinders.

(M) **Acupressure needles:** gold, silver, steel.

(N) **Endoscopes:**gastrosopes, thoracocopes, peritoneoscopes, bronchoscopic telescopes, cystoscopes, urethoscopes, resectoscopes, cardioscopes, colonoscopes, nephroscopes, laryngoscopes,etc. Many of these have an operating channel large enough to perform surgery via remote controlled instruments. However, endoscopes for non-medical purposes (fibroscopes) are excluded (heading 90.13).

(O) **Apparatus incorporating an automatic data processing machine** and designed solely for calculating the dose and distribution of therapeutic radiation.

(P) **Hyperbaric chambers**(also known as decompression chambers) which are specially equipped pressure vessels to administer oxygen at elevated atmospheric pressure levels. They are used for the treatment of conditions such as decompression sickness, air embolism, gas gangrene, carbon monoxide poisoning, refractory osteomyelitis, skin grafts and flaps, actinomycosis, and exceptional blood loss anaemia.

(Q) **Lamps** which are specially designed for diagnostic, probing, irradiation etc.purposes. Torches, such as those in the shape of a pen are excluded (heading 85.13) as are other lamps which are not clearly identifiable as being for medical or surgical use (heading 94.05).

(IV) SCINTIGRAPHIC APPARATUS:

These are apparatus which scans parts of the body and creates image of an organ or record of it's functioning. It includes apparatus incorporating a scintillation counter the data from which is converted into analogue signals for the purpose of making medical diagnosis (e.g. gamma camera, scintillation scanner).

(V) OTHER ELECTRO-MEDICAL APPARATUS:

This heading also covers electro-medical apparatus for preventive, curative or diagnostic purposes, other than X-ray etc. apparatus of heading 90.22. This group includes:

(1) **Electro-diagnostic apparatus** which include:

- (i) **Electro-cardiographs** (apparatus, which by means of currents produced by contractions of the cardiac muscles, records heart movements as electrocardiograms.).
- (ii) **Phonocardiographs** (specially designed to register heart noises as phonocardiograms; they may also be used as electrocardiographs).
- (iii) **Cardioscopes** (used in conjunction with the two preceding instruments to enable simultaneous observation of cardiograms and phonocardiograms)
- (iv) **Rheocardiographs**(electrical apparatus for measuring changes of electrical resistance due to the functioning of the heart).
- (v) **Electroencephalographs** (for examination of the brain).

- (vi) **Electrosphygmographs** (for registering artificial pressure and volume).
 - (vii) **Electrotonographs** (for registering variations in arterial, intravenous or intracardial pressure).
 - (viii) **Electroretinographs** (for measuring strain in the retina).
 - (ix) **Audiometers and similar apparatus**(for hearing tests based on frequency variations).
 - (x) **Diagnostic apparatus** incorporating or operating in conjunction with an automatic data processing machine for processing and visualising clinical data etc.).
 - (xi) **Ultrasonic diagnostic equipment** used for representation of organs, e.g. on a display tube, by means of ultrasonic waves.
 - (xii) **Nuclear Magnetic Resonance (NMR) apparatus** used to represent the characteristics of tissues and organs inside the human body, using the magnetic properties of body atoms, such as hydrogen atoms.
- (2) **Electrotherapy apparatus:** Apart from it's use in diagnosis, this apparatus is employed to treat diseases such as neuritis, neuralgia, hemiplegia, phlebitis, endocrinal anaemia. Certain of these appliances can be combined with electro-surgical instruments referred to paragraph (7) below.
- (3) **Iono therapy apparatus** used to administer active medicaments (sodium or lithium salicylate, potassium iodide, histamine etc.) through the skin by the aid of an electric current.
- (4) **Diathermy apparatus** to treat certain diseases which require heat (e.g. rheumatism, neuralgia, dental ailments). These operate by the use of high frequency (shortwave, ultrasonic, ultra shortwaveetc.)currents, and employ electrodes in a variety of forms (e.g. plates, rings, tubes).
- (5) **Electric shock treatment apparatus** to treat mental or nervous diseases.
- (6) **Cardiac defibrillators** for defibrillating the heart by the application of electric current.
- (7) **Electro-surgical apparatus.** These utilise high frequency electric currents, the needle, probe, etc., forming one of the electrodes. They can be employed to cut tissues (electrocuting) with a lancet (electric lancet), or to coagulate the blood (electrocoagulation). Certain combined instruments may, by the use of control pedals, be made to act interchangeably as electrocuttersorelectrocoagulators.
- (8) **Actinotherapy apparatus:** These employ radiations within, or more generally, just outside, the visible spectrum (infra-red, ultra-violet) for treatment of certain diseases or for diagnostic purposes (special lighting to reveal skin diseases). This apparatus generally incorporates lamps though infra-red apparatus may be fitted with heating resistances or heating panels with reflectors.
- (9) **Artificial incubators for babies:** Basically these consist of a transparent cubicle of plastics, electrical heating equipment, safety and

warning devices, and oxygen and air filtering and regulating apparatus. In most cases they are mounted on a trolley and have built-in baby scales.

Cases containing electrodes or other devices for use with the apparatus described above are also included in this group. This heading also excludes prenatal listening apparatus for non-medical use of heading 85.18 (see the explanatory notes to that heading)."

10.4 We have gone through the above explanatory notes to the Harmonized Commodity Description and Coding System with respect to Sub-heading 9018, which also contains an illustrative list of the instruments/apparatus/appliances listed therein covered under the Sub-Heading No.9018 but could not find any specific mention of ‘Urine Collection Bag’ in the said list. However, from a bare reading of the Chapter Heading 9018, it can be derived that it covers ‘Instruments and appliances used in Medical, Surgical, dental or Veterinary Sciences, including scientigraphic apparatus, other electromedical apparatus and sight-testing instruments’ and this chapter heading is wide enough in its scope so as to cover all the appliances/instruments used in Medical Sciences. We are therefore of the opinion that the instruments and appliances used in medical sciences, subject to relevant conditions, which are not covered under any of the Sub-headings starting from 90181100 to 90189098 under the Heading 9018 would be invariably covered under the Sub-heading 90189099. We therefore conclude that the ‘Urine collection bag’ manufactured and supplied by the applicant are covered under the Sub-heading 90189099 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

10.5 Further, on going through the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017, it is found that the Heading 9018 appears at entry No.218 of Schedule-II of the said notification on which the GST liability is 12% (6% SGST + 6% CGST). The same reads, as under:

S.No.	Chapter / Heading/ Subheading/ Tariff item	Description of Goods
218	9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments.

10.6 As per the submission of the applicant, the Urine collection bags are covered under Serial No. Entry (8) of List 3 of Entry 257 of Schedule-I of Notification No:01/2017-Central Tax (Rate) dated 28.06.2017 attracting GST at the rate of 5% and that the subject goods are for disabled falling under HSN Code 90189099. The said entry reads, as under:

S.No.	Chapter / Heading/ Subheading/ Tariff item	Description of Goods
257	90 or any other chapter	Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3 appended to this Schedule.

List 3 reads, as under:

List 3 [See S.No.257 of the Schedule I]

- (A) (1) Braille writers and braille writing instruments
(2) Hand writing equipment Braille Frames, Slates, Writing Guides, Script Writing Guides, Styli, Braille Erasers

- (3) Canes, Electronic aids like the Sonic Guide
- (4) Optical, Environmental Sensors 20
- (5) Arithmetic aids like the Taylor Frame (arithmetic and algebra types), Cubarythm, Speaking or Braille calculator
- (6) Geometrical aids like combined Graph and Mathematical Demonstration Board, Braille Protractors, Scales, Com- passes and Spar Wheels
- (7) Electronic measuring equipment, such as calipers, micrometers, comparators, gauges, gauge blocks Levels, Rules, Rulers and Yardsticks
- (8) Drafting, Drawing aids, tactile displays
- (9) Specially adapted clocks and watches

- (B)(1) Orthopaedic appliances falling under heading No. 90.21 of the First Schedule
- (2) Wheel chairs falling under heading No. 87.13 of the First Schedule

(C) Artificial electronic larynx and spares thereof

(D) Artificial electronic ear (Cochlear implant)

- (E) (1) Talking books (in the form of cassettes, discs or other sound reproductions) and large-print books, braille embossers, talking calculators, talking thermometers
- (2) Equipment for the mechanical or the computerized production of braille and recorded material such as braille computer terminals and displays, electronic braille, transfer and pressing machines and stereo typing machines
- (3) Braille paper
- (4) All tangible appliances including articles, instruments, apparatus, specially designed for use by the blind
- (5) Aids for improving mobility of the blind such as electronic orientation and obstacle detectbn appliance and white canes
- (6) Technical aids for education, rehabilitation, vocational training and employment of the blind such as Braille typewriters, braille watches, teaching and learning aids, games and other instruments and vocational aids specifically adapted for use of the blind
- (7) Assistive listening devices, audiometers
- (8) External catheters, special jelly cushions to prevent bed sores, stair lift, **urine collection bags**
- (9) Instruments and implants for severely physically handicapped patients and joints replacement and spinal instruments and implants including bone cement.

10.7 We also find that the applicant has referred to Custom Notification No.50/2017-Customs dated 30.06.2017 (please see para 2.2) wherein an entry similar to the one at Sr.No.257 of Schedule-I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 has been mentioned. However, we find that only the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) is made applicable to GST as per Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 for the purpose of classification of products, hence the said Custom Notification is not being discussed here as it is not applicable to GST.

11. We have also gone through the Entry No.257 of Schedule-I of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 which reads as: “*Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3 appended to this Schedule*” as well as Entry 8 of List 3(E) to the Schedule-I of the said Notification which reads as: “(8) *External catheters, special jelly cushions to prevent bed sores, stair lift, **urine collection bags**.*” We also find that there is specific mention of ‘Urine collection bags’ at Entry 8 of List 3(E) of the said Schedule. Also, on going through the submission of the applicant

dated 22.07.2020 vide which they have submitted the list of raw materials used in the manufacture of Urine Collection Bags, the flow chart showing the manufacturing process of the Urine Collection Bags, catalogue of the company showing the medical devices manufactured and supplied by them as well as the Balance Sheets for the financial years 2017-18 and 2018-19, we find that they are involved in the manufacture and supply of a number of medical devices which also includes Mechanical Urine Bags (Urine Collection Bags). Further, on going through the opinion of the doctors with regard to the usage of the Urine Collection Bags, it is found that the Urine Collection Bags manufactured and supplied by the applicant are: (i) used as assistive devices for bedridden patients and is a medical device used to empty the bladder when a patient is unable to do so naturally. (ii) used in patients in whom there is case of retention of urine after catheterization (iii) used in post-operative cases where patient requires 1-3 days rest in bed after catheterization (iv) used in patients where there is obstruction in urinary tract in acute and chronic cases (v) used in case of old or aged people confined to bed, to prevent soaking of bed. Further, as per the opinion of the doctors, Urine Collection Bags usually have a drainage bag to capture the urine and for bedridden patients, the bag may drape over the side of the bed; that the bag can be emptied into the toilet as and when needed and that intermittent catheterization involves inserting and removing the catheter several times a day and this eliminates the need to wear a continuously draining catheter. However, we find that 'Urine Collection Bags' are assistive devices which are also used by people other than those who are disabled or bedridden e.g. it is used by persons facing problems such as urinary incontinence (leakage), urinary retention (not being able to urinate), surgery that made a catheter necessary or any other health problem. People who are not confined to bed can have the 'Urine Collection Bag' strapped to their legs and hidden under the clothing while moving around.

11.1 On going through the above submissions and in light of the above discussions, we find that the 'Urine Collection Bags' manufactured and supplied by the applicant are instruments/appliances, which are used in medical sciences, are classifiable under heading 9018 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and appear at Entry No.218 of Schedule-II to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 on which GST liability is 12% (6% CGST + 6% SGST). We also find that there is another entry i.e. Entry No.257 of Schedule-I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 which covers "*Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3 appended to this Schedule*" and the product "Urine Collection Bag" finds mention at Entry No.8 of List 3(E). The GST liability under the said entry is 5%(2.5% CGST and 2.5% SGST). We also find that "Urine Collection Bag" is an assistive device and that it would be covered under Entry No.257 of Schedule-I of the said notification, irrespective of the fact as to whether the said product is used for disabled people or otherwise. In this regard, since there are 2 separate entries available to the applicant falling under different Schedules of the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017, we will be required to refer to Rule 3 of the General Rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), which reads as under:

"3. When by application of Rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a)the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as the criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.”

11.2 As per 3(a) above, the heading which provides the most specific description shall be preferred to headings providing a more general description. In this case, we find that the entry No.257 of Schedule-I of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 provides a more specific description of the product manufactured and supplied by the applicant as there is a specific entry of ‘Urine Collection Bag’ at Entry No.8 of List 3(E) appended to the said Schedule whereas the Entry No.218 in Schedule-II of aforementioned Notification provides only a general description i.e. instrument/appliance used in the medical sciences. Therefore, in light of the aforementioned discussions as well as in light of Rule 3(a) of the General Rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), we conclude that the product ‘Urine Collection Bags’ manufactured and supplied by the applicant fall under Entry No.257 of Schedule-I of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 and the GST liability on it is 5%(2.5% + 2.5%).

12. In view of the discussions as detailed above, we rule as under –

R U L I N G

Q. Whether the goods supplied by the applicant are covered under Serial No. E(8) of List 3 of Entry 257 of Schedule I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘CGST Act, 2017’) and corresponding Notifications issued under the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘GGST Act, 2017’) and the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the IGST Act, 2017) OR Serial No.218 of Schedule-II of the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 attracting GST rate of 12%.”

Ans. The goods supplied by the applicant M/s. Narendrakumar Manilal Patel (National Healthcare) are covered under Serial No. E(8) of List 3 of Entry 257 of Schedule I of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 30.07.2020.