

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



ADVANCE RULING NO. GUJ/GAAR/R/71/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/20)

Date: 17.09.2020

Name and address of the applicant	:	M/s GB Agro Industries, Plot No. 1723, GIDC Panoli, Ankleshwar, Bharuch, Gujarat- 394116.
GSTIN of the applicant	:	24AALFG1420F1ZX
Date of application	:	12.03.2019 (Revised on 15.08.2020)
Clause(s) of Section 97(2) of CGST/GGST Act, 2017, under which the question (s) raised.	:	a) Classification of goods and/or services or both.
Date of Personal Hearing	:	18.08.2020 (through video conferencing)
Present for the applicant	:	Shri Avinash Poddar, Advocate

BRIEF FACTS:

The applicant has filed an application dated 12.03.2020 for Advance Ruling, which was subsequently revised on 15.08.2020 and requested to consider the facts as per revised application. The facts stated in the original application are as below:

ORIGINAL APPLICATION:

2. The applicant has stated that they are engaged in the manufacture of different types of fertilizers viz. Chemical fertilizers, Organic fertilizers and Bio-fertilizers. At present, they are manufacturing “Organic Manure”, “Bio-fertilizers”, “Granulated Nutrient Mixture” and “Phosphatic Rich Fertilizers”. They submitted the details of composition or ingredients of above fertilizers, as under:

- (i) **“Organic Manure”**- Poultry Manure, Organic Ash, Compost, Cow Dung, Bone Meal, Bio-culture, Sulphur Powder (Mineral), Rock Phosphate (Mineral) & Bentonite (Mineral). They do chemical treatment with Gypsum (for neutralization) and Ammonium Sulphate (for neutralization).
- (ii) **“Bio- Fertilizers”**- Rhizobium, Azotobacter, Azospirillum, Phosphate solubilizing bio-fertilizer, Mycorrhizal bio-fertilizer, Potassium Mobilizing bio-fertilizer, Zinc solubilizing bio-fertilizer, Acetobacter,

Carrier based Consortia, Liquid Consortia, Gypsum (Carrier Material), Bentonite Mineral (Carrier Material) and Dolomite (Carrier Material).

- (iii) **“Granulated Nutrient Mixture”**- Ammonium Sulphate, Urea, Gypsum, Bentonite Mineral, Humic Acids, Amino acids, Biofulvic, Potassium and Humate.
- (iv) **“Phosphatic Rich Fertilizers”**- Gypsum, Rock Phosphate, SSP & Di-ammonium Phosphate (DAP).

2.1 The applicant has also furnished the list of production equipment and machines and Fertilizer production line working flowchart.

2.3 At present, they are classifying their products, “Organic Manure”, “Bio-fertilizers” and “Granulated Nutrient Mixture” under Chapter 31 under tariff item 3101 and 3102. Further, they proposed to manufacture “Phosphatic Rich Fertilizers” classifying the same under Chapter 31 in tariff item 3103. But they are not sure whether the classification of the products done by them is correct.

2.4 In view of above backdrops, the applicant has put forward his question on which advance ruling is required, as under:

“Classification of the “Organic Manure”, “Bio-fertilizers”, “Granulated Nutrient Mixture” and “Phosphatic Rich Fertilizers” manufactured by them and its HSN code? ”

3. Statement containing the applicant’s interpretation of law and/or fact:

3.1 The applicant submitted that;

- (a) **“Organic Manure”**- Organic fertilizers are obtained from animal sources such as animal manure or plant sources like green manure.
- (b) **“Bio-fertilizers”**- Bio-fertilizers are microbial inoculants consisting of living cells of micro-organism like bacteria, algae and fungi alone or combination which may help in increasing crop productivity.
- (c) **“Granulated Nutrient Mixture”**- The fertility status of a soil and crop often requires the application of more than one nutrient for the correction of nutritional disorders. So a mixed fertilizer is required to meet the requirements.
- (d) **“Phosphatic Rich Fertilizers”**- Certain types of rock phosphates of sedimentary origin are applied to acidic soils as fertilizer directly. The granulation of potassium salts and/or ammonium salts or a mixture

thereof, such as in a suitable granulating device, for use as a fertilizing material.

3.2 The applicant further submitted that from the description of the goods shown in Entries at Sl. No. 182, 182A & 182B of the Schedule I of the Notification No.1/2017-Central Tax (Rate) dated 30.06.2017 as amended, it is clear that all the components are used in manufacturing of said products, as mentioned in para 2 above and, therefore, as per their understanding, their products, viz. “Organic Manure”, “Bio-fertilizers”, “Granulated Nutrient Mixture” and “Phosphatic Rich Fertilizers” are to be classified under Chapter Headings 3101, 3101, 3102 and 3103, respectively.

3.3 The applicant further submitted that **Bio-fertilizers or Organic Manure** is classifiable under tariff heading 3101 and when it is other than those put up in unit container and bearing a brand name would attract nil rate of duty but when Bio-fertilizer is put up in unit container and bearing a brand name, it would be taxable under GST @ 5%- **In Re: Rhizo Organic- -2018 (14) G.S.T.L.600 (A.A.R.-GST).**

3.4 The applicant further submitted that **Fertilizers supplied for use in manufacture of other fertilizers attract GST @ 5%**- Fertilizers supplied for use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers) falling under Heading 3102, 3103, 3104 and 3105, will attract 5% GST [S. No. 182A to 182D of the First Schedule to the Notification No. 1/2017-C.T. (Rate), dated 28.06.2017], as the phrase “*other than clearly to be used as fertilizers*” would not cover such fertilizers that are used for making complex fertilizers for use as soil or crop fertilizers. However, the fertilizers items falling under the above mentioned headings, which are clearly not to be used as fertilizers attract 18% GST [S. No. 42 to 45 of the Schedule-III to the Notification No. 1/2017-C.T. (Rate)]- **C.B.I.C. Circular No.54/28/2018-GST dated 09.08.2018- 2018 (15) G.S.T.L.C23].**

3.5 Since, in the Notification No. 01/2017-C.T. (Rate), dated 28.06.2017 as amended further vide Notification No. 01/2017-C.T. (Rate), the goods manufactured by them is specifically classified in Tariff item 3101, 3102 and 3103 of the Schedule I- 2.5%, their product should be classified under this chapter heading only. The applicant further submitted that they can further provide sample of their products for verification.

REVISED APPLICATION:

4. **On 15.08.2020**, the applicant has revised the original application dated 12.03.2020 for Advance Ruling and stated the facts, as under:

4.1 M/s GB Agro Industries is a Partnership Firm incorporated on 11th June, 2012 having PAN-AALFG1420F and registered office at Plot No.1723, Panoli GIDC, Ankleshwar, Bharuch -394 116, Gujarat. The objective of the firm is to carry on the business of manufacturing of different types of fertilizers. Firm manufactures a wide range of fertilizers namely chemical fertilizers, organic fertilizers and bio-fertilizers.

4.2 The applicant has submitted that in an extremely prosperous industrial belt, firm draws on the resources of the natural wealth of the land as well as the industrially rich reserves of the area. Since Inception, firm has worked towards an extensive growth as a corporation. A growth which respects the environment and springs from the progressive vision of firm. It has always been an endeavour to manufacture, handle and market quality fertilizers and do not compromise on quality aspects in any respects for short term gains. The prime objective of firm is to provide the maximum benefit possible to the farmers by developing new, cost-effective and result-oriented products for the overall growth of farmers and ultimately the growth of firm. Firm is also certified by Organic Certifying agencies so as to provide Organic fertilizers to the farmers who are seeking for 100% Organic Certified Inputs. The Firm distributes its products through the network of Agro dealers. Looking at importance of market needs, the firm thought it appropriate to enlarge its market base keeping the potential of different areas in mind. The Firm has many Agro dealers and distributors in Maharashtra, Gujarat, Madhya Pradesh and Rajasthan.

Business process of Manufacturing fertilizers:

4.3.1 The applicant has further submitted that at present the firm is engaged in manufacturing of different types of fertilizers namely Organic Fertilizers, Bio-fertilizers, Nitrogenous Mixture Fertilizers and Mixture of Fertilizer. The firm is having license for selling of fertilizers.

4.3.2 The applicant further submitted the details of composition or ingredients of above fertilizers, as under:

Organic Fertilizers	Bio-Fertilizers	Nitrogenous Mixture Fertilizers	Mixture Fertilizers
<ul style="list-style-type: none"> • Poultry Manure • Organic Ash • Compost • Cow Dung • Bone Meal • Vegetable Waste 	<ul style="list-style-type: none"> • Lignite/Coal Powder • Organic Manure • Bone Meal • Amino Acids • Bio-Fulvic 	<ul style="list-style-type: none"> • Ammonium Sulphate • Urea • Gypsum • Bentonite 	<ul style="list-style-type: none"> • Urea • DAP • MOP • Gypsum • Rock Phosphate • Ammonium

<ul style="list-style-type: none"> • Sulphur Powder (Mineral) • Rock Phosphate (Mineral) • Bentonite (Mineral) • Gypsum (for neutralization) • Bio-Culture Amino Acid • Bio-Fulvic and • Potassium Humate 	<ul style="list-style-type: none"> • Potassium Humate • Rock Phosphate • Rhizobium • Azotobacter • Azospirillum • Phosphate solubilizing bacteria • Mycorrhizal bio-fertilizers • Potassium Mobilizing bio-fertilizer • Zinc solubilizing bio-fertilizer • Acetobacter • Carrier based Consortia Gypsum (Carrier Material) • Bentonite Mineral (Carrier Material) • Dolomite (Carrier Material) • Phosphate Solubilising • Fungal Bio-fertilizer 	<ul style="list-style-type: none"> • Amino Acids • Bio-fulvic • Potassium Humate 	<ul style="list-style-type: none"> • Potassium Sulphate • Bentonite • Dolomite • Amino Acids • Bio-Fulvic • Potassium Humate • Poultry and Organic Ash
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4.3.3 The applicant further submitted the details of production equipment, as under:

Main parts: 1. Composting and Treatment (only required for manufacture of Organic Fertilizers); 2. Feeding Hopper; 3. Granulator Drum; 4. Drier Drum; 5. Cooler Drum; 6. Vibrating Screen; 7. Coating Drum 8. Packaging machine

Fertilizer Production Line Main Components:

The whole fertilizer machinery in the fertilizer production line includes the following machines: Raw Material decomposing and treatment -->fertilizer Feeding Hopper --> fertilizer crushing machine --> rotary drum granulator --> rotary drum drying machine --> rotary drum cooling machine --> rotary screening machine --> coating machine --> packaging.

Fertilizer Production Line Working Flow-chart:

According to the compatibility and crossability, raw materialising different percentage compositions are taken so different fertilizers can be manufactured as per requirement applicable for different requirements of soils and crops.

1. Composting and Treatment: Firstly, they mix different types of raw materials as per ratio required for composting and treatment. (only required for manufacture of Organic Fertilizers);
 2. Feeding Hopper: After composting and chemical treatment, the composed raw material and other different types of raw materials are fed into hopper. Then, according to the technical requirements, the raw materials in that particular composition are send from the feeding hopper to the crushing process.
 3. Crushing Process: The lump materials should be grinded before the granulating process. But we can leave out crushing process when the compost material is fine enough. Then the conveying belt sends the materials to granulation drum.
 4. Granulator Drum: During granulating, there is a pump to offer spray and water pump to offer water and makes powder particles or fertilizer particles form easily. The solid powder after granulating will rise by the rotation of the cylinder and scroll down under the effect of gravity. After several times repetition of the same rotation, fertilizer materials gradually form. Next the conveying belt sends the materials to rotary drum drying machine and cooling machine.
 5. Drier Drum: In this process, drier drum rotates and there is coal furnace to supply hot air to drying machine so as to increase the strength of granules and also to remove the contamination after granulation from granulator drum. After drying, the conveyor belt sends the granules to cooling drum.
 6. Cooler Drum: In this process, the cooler drum rotates and there are draught fans to supply normal air so as to further increase the strength of granules. After cooling, the conveyor belt sends the granules to vibrating screen.
 7. Screening Process: In the process of screening, the qualified materials can be sent to packaging machine by conveyor, while others are conveyed back to crusher or granulator to be re-processed.
 8. Coating: After granules are manufactured, they do coating of different types of Bio-Fertilizers as per FCO, 1985 guidelines. In process of coating, cylindrical drum rotates and granules are fed and spray of required Bio-Fertilizer as per requirement is done.
5. The applicant has further submitted that issue is that at present the firm is manufactures and classifies Organic Fertilizers under tariff item 3101 of Chapter 31, Bio-fertilizers under tariff item 3101 of Chapter 31, Nitrogenous Mixture Fertilizers under tariff item 3102 of Chapter 31 and Mixture Fertilizers under tariff item 3105 of Chapter 31. But the firm is not sure whether the classification of the products done by them is correct.

6. In view of the above backdrops, the applicant has sought for advance ruling in respect of the following question:

“Classification of the “Organic Manure”, “Bio-fertilizers”, “Nitrogenous Mixture Fertilizer” and “Mixture Fertilizer” manufactured by them and its HSN code? ”

7. **Statement containing the applicant’s interpretation of law and/or fact:**

7.1 Question No.1:

Classification of the Organic fertilizers, Bio-fertilizers, Nitrogenous Mixture Fertilizers and Mixture of Fertilizer manufactured by them and it’s HSN Code?

(a) Organic Fertilizers: Organic fertilizers are obtained from animal sources such as animal manure or plant sources like green manure.

(b) Bio-fertilizers: As per Fertilizer Control Order 1985, Bio-fertilizer means the product containing carrier based (solid or liquid) living microorganisms which are agriculturally useful in terms of nitrogen fixation, phosphorus solubilisation or nutrient mobilization, to increase the productivity of soil or crop.

Entry at HSN Code 3101 in the Schedule I of rate of GST on Goods:

“Following products can be classified under Heading 3101- Animal or vegetable fertilisers, whether or not mixed together or chemically treated; fertilisers produced by the mixing or chemical treatment of animal or vegetable products:

*Guano
Animal dung
Animal excreta
Other”*

(c) **Nitrogenous Mixture Fertilizers:** Nitrogenous mixture fertilizers are classified under HSN Code 31029090 as they are manufactured by mixing Ammonium Sulphate, Urea with Gypsum and accordingly are nitrogenous fertilizers.

Entry at HSN Code 3102 in the Schedule I of rate of GST on Goods:

Following products can be classified under Heading 3102 - Mineral or chemical fertilisers, nitrogenous, other than those which are clearly not to be used as fertilizers:

(a) goods which answer to one or other of the descriptions given below:

- (i) sodium nitrate, whether or not pure;*
- (ii) ammonium nitrate, whether or not pure;*
- (iii) double salts, whether or not pure, of ammonium sulphate and ammonium nitrate;*
- (iv) ammonium sulphate, whether or not pure;*

- (v) double salts (whether or not pure) or mixtures of calcium nitrate and ammonium nitrate;
- (vi) double salts (whether or not pure) or mixtures of calcium nitrate and magnesium nitrate;
- (vii) calcium cyanamide, whether or not pure or treated with oil;
- (viii) urea, whether or not pure.

(b) fertilisers consisting of any of the goods described in (a) above mixed together;

(c) fertilisers consisting of ammonium chloride or of any of the goods described in (a) or (b) above mixed with chalk, gypsum or other inorganic non-fertilising substances;

(d) liquid fertilisers consisting of the goods of sub-paragraph (a)(ii) or (viii) above, or of mixtures of those goods, in an aqueous or ammoniacal solution.”

(d) Mixture of Fertilizer: Mixture of fertilizer is classified under HSN 31059090 as it as a mixture of fertilizer containing Nitrogen, Phosphorus, Potassium and Organic Content Entry at HSN Code 3105 in the Schedule I of rate of GST on Goods:

Following products can be classified under Heading 3105 –

“Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertiliser:”

Mixture of Fertilizer contains two or three of the fertilising elements nitrogen, phosphorus and potassium and are classified under HSN Code 3105.

Provisions of law and notifications:-

7.2 Provisions of Notification No.1/2017 – Central Tax (Rate) dated 28th June, 2017 read as under:

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of the central tax of-

- (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

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules.

Schedule I – 2.5%

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
182	3101	All goods i.e. animal or vegetable fertilisers or organic fertilisers put up in unit containers and bearing a brand name
*182A	3102	Mineral or chemical fertilisers, nitrogenous, other than those which are clearly not to be used as fertilizers
*182D	3105	Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers

*S. No. 182A and 182D are inserted by Notification No.18/2017-Central Tax (Rate), dated 30-06-2017, w. e. f. 01-07-2017, Provisions of the same read as under:

“In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.1/2017- Central Tax (Rate), dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673 (E) dated the 28th June, 2017,namely:—

2. In the said notification,— (i) in Schedule I - 2.5%, after serial number 182 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:-

Schedule I – 2.5%

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
182	3101	All goods i.e. animal or vegetable fertilisers or organic fertilisers put up in unit containers and bearing a brand name
182A	3102	Mineral or chemical fertilisers, nitrogenous, other than those which are clearly not to be used as fertilizers
182B	3103	Mineral or chemical fertilisers, phosphatic, other than those which are clearly not to be used as fertilizers
182C	3104	Mineral or chemical fertilisers, potassic, other than those which are clearly not to be used as fertilizers
182D	3105	Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers other fertilisers; goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg; other than those which are clearly not to be used as fertilizers”;

(ii) in Schedule II - 6%, serial numbers 66, 67, 68 and 69 and the entries relating thereto shall be omitted.

3. This notification shall come into force with effect from the 1st day of July, 2017.”

7.3 Their Understanding and Interpretation are as under:

From the descriptions mentioned herein above, it is clear that all the components are used in manufacturing Organic Fertilizers, Bio-fertilizers, Nitrogenous Mixture Fertilizers and Mixture of Fertilizer as specified in Annexure-I and therefore as per our understanding the classification is 3101, 3101, 3102 and 3105 respectively under Chapter 31.

7.4 Further, Bio-fertilizers or Organic Fertilizer is classifiable under Tariff Heading 3101 and when it is put up in Unit Container and bearing a brand name would be covered under Schedule-I of rate of GST on goods attracting/attract nil rate of duty but when Bio-fertilizer is put up in Unit Container and bearing a brand name, it would be taxable under GST @ 5%- In Re : Rhizo Organic - 2018 (14) G.S.T.L.600 (A.A.R.-GST).

7.5 Fertilizers supplied for use in manufacture of other fertilizers at 5% GST rate. - Fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers) falling under Headings 3102, 3103, 3104 and 3105, will attract 5% GST [S. No. 182A to 182D of the First Schedule to the Notification No. 1/2017-C.T. (Rate), dated 28-6-2017], as the phrase “other than clearly to be used as fertilizers” would not cover such fertilizers that are used for making complex fertilizers for use as soil or crop fertilizers. However, the fertilizers items falling under the abovementioned headings, which are clearly not to be used as fertilizer attract 18% GST [S. No. 42 to 45 of the schedule-III to the Notification No. 1/2017-C.T. (Rate)]. - C.B.I. & C. Circular No. 54/28/2018-GST, dated 9-8-2018 - 2018 (15) G.S.T.L. C23.

7.6 Since, in the Notification No. 01/2017–Central Tax (Rate) amended further vide Notification No. 18/2017-Central Tax (Rate) the goods manufactured by us is specifically classified in tariff item 3101,3102 and 3105 of Schedule I – 2.5%, their products should be classified under this chapter heading only.

8. At the time of personal hearing held through Video Conferencing on 18.08.2020, the Authorised Representative of the applicant, Shri Avinash Poddar, Advocate, reiterated the facts as stated in the Application and mentioned herein above.

DISCUSSION & FINDINGS:

9. We have considered the submissions made by the applicant in their application revised on 15.08.2020 for advance ruling, additional submission dated 24.08.2020 as well as oral submission made by the Authorised Representative of the applicant, Shri Avinash Poddar, Advocate, at the time of personal hearing held through Video Conferencing on 18.08.2020. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant’s interpretation of law.

9.1 At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act 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 the same provisions under the GGST Act.

10. The applicant has sought for advance ruling in respect of following question, as revised:

“Classification of the “Organic Manure”, “Bio-fertilizers”, “Nitrogenous Mixture Fertilizer” and “Mixture Fertilizer” manufactured by them and its HSN code? ”

11. On going through the submission given by the applicant, we find that they are engaged in the manufacture of the products viz. “Organic Manure”, “Bio-fertilizers”, “Nitrogenous Mixture Fertilizer” (“Granulated Nutrient Mixture”) & “Mixture Fertilizer” (“Phosphatic Rich Fertilizers”), classifying the same under Chapter heading Nos. 3101, 3101, 3102 & 3105, respectively. The composition of each product as submitted by the applicant, is as below:

Organic Fertilizers	Bio-Fertilizers	Nitrogenous Mixture Fertilizers	Mixture Fertilizers
<ul style="list-style-type: none">• Poultry Manure• Organic Ash • Compost• Cow Dung• Bone Meal• Vegetable Waste• Sulphur Powder (Mineral)• Rock Phosphate (Mineral)	<ul style="list-style-type: none">• Lignite/Coal Powder• Organic Manure• Bone Meal• Amino Acids• Bio-Fulvic• Potassium Humate• Rock Phosphate• Rhizobium• Azotobacter	<ul style="list-style-type: none">• Ammonium Sulphate• Urea• Gypsum• Bentonite • Amino Acids• Bio-fulvic • Potassium Humate	<ul style="list-style-type: none">• Urea• DAP• MOP• Gypsum• Rock Phosphat • Ammonium Sulphate• Bentonite• Dolomite • Amino

<ul style="list-style-type: none"> • Bentonite (Mineral) • Gypsum (for neutralization) • Bio-Culture Amino Acid • Bio-Fulvic and • Potassium Humate 	<ul style="list-style-type: none"> • Azospirillum • Phosphate solubilizing bacteria • Mycorrhizal bio-fertilizers • Potassium Mobilizing bio-fertilizer • Zinc solubilizing bio-fertilizer • Acetobacter • Carrier based Consortia Gypsum (Carrier Material) • Bentonite Mineral (Carrier Material) • Dolomite (Carrier Material) • Phosphate Solubilising • Fungal Bio-fertilizer 		<p>Acids</p> <ul style="list-style-type: none"> • Bio-Fulvic • Potassium Humate • Poultry and Organic Ash
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12. In order to determine the classification and tax liability on the supply of the products, “Organic Manure”, “Bio-fertilizers”, “Nitrogenous Mixture Fertilizer” (“Granulated Nutrient Mixture”) & “Mixture Fertilizer” (“Phosphatic Rich Fertilizers”) by the applicant and to decide as to whether these products are correctly classifiable under Sub-heading nos. 3101, 3101, 3102 & 3105, respectively, as requested by the applicant, we will be required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 containing the 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.

13. Before deciding the correct classification of the products in question, it is necessary to analyse characteristics of *fertilizer, organic fertilizer, bio fertilizer, plant growth regulator* as well as those of the products being manufactured by the applicant in order to decide whether the products are fertilizers as claimed by the Applicant or otherwise.

14. As the above expressions have not been defined in the GST Law or the notification issued thereunder, we refer to meanings assigned to them in the dictionary.

(a) Fertilizers: The term “fertilizer” means a material containing one or more of the recognized plant nutrients such as Nitrogen, Phosphorus and Potassium, Calcium, Sulphur, Iron, Magnesium, Zinc etc., which are used primarily for their plant nutrient content. Fertilizers are derived from a wide variety of natural and manufactured materials and are sold in solid, liquid and gaseous form (anhydrous ammonia). These materials are designed for use or claimed to have value in promoting plant growth or increasing plant-available nutrient levels in soils.

(b) Organic Fertilizers: The word organic applied to fertilizers usually means that the nutrients contained in the products are derived solely from the remains of a once-living organism. Thus, organic fertilizers are derived from animal matter (animal wastes from meat processing, animal excreta (manure) or vegetable matter (e.g. compost and crop residues) which are different from manufactured fertilizers synthesized from various chemicals. In general, organic fertilizers act much like the slow-release fertilizers which release nutrients over an extended period of time whereas synthetic fertilizers release requires chemicals quickly on their application. The Common characteristic of both organic and manufactured fertilizers is that they contain nutrients that promote plant growth.

(c) Bio Fertilizers: Bio fertilizer is a substance which contains living micro organisms which, when applied to the seed, plant surfaces or soil colonizes the rhizosphere or the interior of the plant and promotes growth by

increasing the supply or availability of primary nutrients to the host plant. Bio-fertilizers add nutrients through the natural processes of nitrogen fixation, solubilizing phosphorus, and stimulating plant growth through the synthesis of growth-promoting substances.

Major types and source of Bio fertilizers are:-

- a. Rhizobium is a bacterium living in the root of leguminous plants in symbiotic association. The root cells of leguminous plant contain a purple coloured pigment called leghemoglobin in which the bacteria float to fix atmospheric nitrogen.
 - b. Azospirillum lipoferum is another bacterium which lives in loose association with some grasses, rice, maize and rice.
 - c. Azotobacter, Clostridium, Aerobacter, Methanobacterium are free living bacteria which fix atmospheric nitrogen.
 - d. The leaves of Azolla (an aquatic pteridophyte) have large number of plants of Anabaena (a blue green algae) which have the capacity to fix atmospheric nitrogen which is made available to Azolla.
 - e. Many free living blue-green algae (Anabaena, Nostoc, Aulosira) fix atmospheric nitrogen. Nostoc is placed in the rice crop and provides nitrogen to rice.
 - f. Mycorrhiza : It is the symbiotic relationship between roots of higher plants and fungi.
- (d) **Plant Growth Regulators**: Plant growth regulators (also called plant hormones) are composition of numerous chemical substances that profoundly influence the growth and differentiation of plant cells, tissues and organs. Plant growth regulators function as chemical messengers for intercellular communication. There are currently five recognized groups of plant hormones: Auxins, Gibberellins, Cytokinins, Abscisic acid (ABA) and Ethylene. They work together coordinating the growth and development of cells. Ethylene is mainly involved in abscission and flower seccence in plants and is rarely used in plant tissue culture. In addition to the five principal growth regulators, two other groups sometimes appear to be active in regulating plant growth, the brassinosteroids and polyamines. **Auxins** stimulate cell elongation and influence a host of other developmental responses, such as root initiation, vascular differentiation; **Cytokinins** are able to stimulate cell division and induce shoot bud formation. They usually act as antagonists to auxins, Cytokinins often inhibit embryogenesis and root induction; **Gibberellins**: The main effect of

gibberellins in plants is to cause stem elongation and flowering. They are also prominently involved in mobilization of endosperm reserves during early embryo growth and seed germination; **Absciscic acid (ABA)** in plants is a terpenoid involved primarily in regulating seed germination, including storage protein synthesis and modulating water stress. In plant tissue culture, it is used to help somatic emryogenesis, particularly during maturation and germination; Ethylene is a simple gaseous hydrocarbon with the chemical structure $H_2C=CH_2$. Ethylene is apparently not required for normal vegetative growth. However, it can have a significant impact on development of root and shoots. Usually, ethylene is not used in plant tissue culture.

(e) Difference between Fertilizers and Plant Growth Regulators:

The fertilizers provide chemical elements which are essential to the plant for tissue growth whereas Plant Growth Regulators are chemical substances that are required in small quantities but profoundly influence differentiation of plant cells, tissues and organs. Thus, the plant regulators are triggers that decide the timing of tissue differentiation into shoots, roots, branches, leaves, flowers and seeds in their life cycle just as hormones decide the timing of appearance and maturation of various organs in the animal life cycle.

15. Keeping in mind the discussion made herein above with respect to *fertilizer, organic fertilizer, bio fertilizer, plant growth regulator*, we shall now move on to discuss each product separately and further to classify them accordingly.

“ORGANIC MANURE”

16. **“Organic Manure”**- As per the applicant, Organic Manure/Fertilizer is obtained from animal sources such as animal manure or plant sources like green manure. It contains Poultry Manure, Organic Ash, Compost, Cow Dung, Bone Meal, Vegetable Waste, Sulphur Powder (Mineral), Rock Phosphate (Mineral), Bentonite (Mineral), Bio-Culture Amino Acid, Bio-Fulvic and Potassium Humate. They do chemical treatment with Gypsum (for neutralization) and Ammonium Sulphate (for neutralization). The applicant is proposing to classify Organic Manure under Chapter 3101. Sub-heading No. 3101 which falls under the Chapter-31 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), reads as under:

“3101 ANIMAL OR VEGETABLE FERTILISERS, WHETHER OR NOT MIXED TOGETHER OR CHEMICALLY TREATED; FERTILISERS PRODUCED BY THE MIXING OR CHEMICAL TREATMENT OF ANIMAL OR VEGETABLE PRODUCTS

3101 00 - Animal or vegetable fertilisers, whether or not mixed together or chemically treated; fertilisers produced by the mixing or chemical treatment of animal or vegetable products :

3101 00 10 --- Guano

---- Other :

3101 00 91 ---- Animal dung

3101 00 92 ---- Animal excreta

3101 00 99 ---- Other”.

The above heading clearly indicates that the fertilisers should be produced by mixing or chemical treatment of animal or vegetable products. The ingredients used for manufacture of ‘Organic Fertilisers’ or the composition of the said product has been specified by the applicant as Poultry Manure, Organic Ash, Compost, Cow Dung, Bone Meal, Vegetable Waste, Sulphur Powder (Mineral), Rock Phosphate (Mineral), Bentonite (Mineral), Gypsum (for neutralization), Bio-Culture Amino Acid, Bio-Fulvic and Potassium Humate. Of the said ingredients the ingredients viz. Poultry Manure, Compost, Cow Dung, Bone Meal are certainly within the scope of ‘animal or vegetable products’. However, the ingredients viz. Sulphur Powder, Rock Phosphate and Bentonite are admittedly minerals. Further, gypsum is also a mineral and the same has been defined at Wikipedia as under:

Gypsum is a soft sulfate mineral composed of calcium sulfate dihydrate, with the chemical formula $\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$. It is widely mined and is used as a fertilizer

Another ingredient viz. Potassium Humate has been defined in Wikipedia as under:

Potassium humate is the potassium salt of humic acid. It is manufactured commercially by alkaline extraction of brown coal (lignite) Leonardite to be used mainly as a soil conditioner. The extraction is performed in water with the addition of potassium hydroxide (KOH), sequestering agents and hydrotropic surfactants. Heat is used to increase the solubility of humic acids and hence more potassium humate can be extracted. The resulting liquid is dried to produce the amorphous crystalline like product which can then be added as a granule to fertiliser. The potassium humate granules by way of chemical extraction lose their hydrophobic properties and are now soluble.

The above indicates that Potassium Humate is a chemically synthesised element which is extracted from brown coal and the process involves alkaline reaction.

The ingredient viz. Bio-Fulvic is also commercially known as Bio Potassium Fulvate and the same has been defined on the website <https://bariteworld.com/humic-acid-humate/bio-fulvic-acid> as under:

Bio potassium fulvate is not a pure molecular compound, but a heterogeneous complex macromolecular structure and composition of the extremely complex mixture.

17. The above indicates that the ingredients viz. Sulphur Powder, Rock Phosphate and Bentonite, Gypsum, Potassium Humate and Bio-Fulvic are certainly not covered under the Animal or Vegetable products. For the product to be covered under Chapter head 3101 it is of vital importance that the product should necessarily be either direct animal or vegetable fertilisers such as 'manure' whether mixed together and chemically treated or otherwise and those obtained by mixing or chemical treatment of animal or vegetable products. The said interpretation finds support in the technical definition of the term 'Organic Fertilisers' as available on Wikipedia and which reads as under:

Organic fertilizers are fertilizers derived from animal matter, animal excreta (manure), human excreta, and vegetable matter (e.g. compost and crop residues.) Naturally occurring organic fertilizers include animal wastes from meat processing, peat, manure, slurry, and guano. In contrast, the majority of fertilizers used in commercial farming are extracted from minerals (e.g., phosphate rock) or produced industrially (e.g., ammonia).

The definition in the trade parlance also clearly indicates that Organic Fertilisers are solely obtained from animal or vegetable matter and no other ingredients are present in the said fertilisers. In the instant case, the composition of the 'Organic Fertilisers' as provided by the applicant reveals that it is a mixture of various elements and as such the same should be examined in light of the fact whether the mixture consists of animal or vegetable products or otherwise. The above analysis of the individual ingredients of the product claimed to be 'Organic Fertilisers' indicates that the said is derived from a mixture of Animal Products, Vegetable Products, Minerals and chemically synthesised molecules. In other words, the product is not exclusively a mixture of animal or vegetable products but contains other ingredients which are not animal or vegetable products. Thus, the said product claimed to be 'Organic Fertiliser' is not covered under the Chapter heading 3101 of the first schedule to the Custom Tariff Act.

17.1 The composition of the product contains Amino Acids (Bio-culture amino acids). The key elements of an amino acid are **carbon** (C), hydrogen (H), oxygen

(O), and **nitrogen** (N), although other elements are found in the side chains of certain amino acids. Thus, the presence of nitrogen in the product is visible. Further, it contains Potassium Humate and as such the presence of potassium is also visible. Rock Phosphate which is also one of the components of the product is a non-detrital sedimentary rock that contains high amounts of phosphate minerals. Thus, the product also contains phosphate elements. In addition, the product contains minerals viz. Sulphur Powder and Bentonite. Thus, it is seen that the product is a mixture of animal or vegetable products, minerals, nitrogen, phosphate and potassium. Therefore, the said product merits classification under Chapter 3105 90 90 which reads as under:

“3105 MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS NITROGEN, PHOSPHORUS AND POTASSIUM; OTHER FERTILISERS; GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF A GROSS WEIGHT NOT EXCEEDING 10 KG.

- 3105 10 00 - Goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg.
- 3105 20 00 - Mineral or chemical fertilisers containing the three fertilising elements nitrogen, phosphorus and potassium
- 3105 30 00 - Diammonium hydrogen ortho phosphate (diammonium phosphate)
- 3105 40 00 - Ammonium dihydrogen ortho phosphate (monoammonium phosphate) and mixtures thereof with diammonium hydrogen orthophosphate (diammonium phosphate)”
- 3105 40 00 - Ammonium dihydrogen ortho phosphate (monoammonium phosphate) and mixtures thereof with diammonium hydrogen orthophosphate (diammonium phosphate)
- Other mineral or chemical fertilisers containing the two fertilising elements nitrogen and phosphorus:
 - 3105 51 00 -- Containing nitrates and phosphates
 - 3105 59 00 -- Other
 - 3105 60 00 - Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium
 - 3105 90 - Other :
 - 3105 90 10 --- Mineral or chemical fertilisers containing two fertilising elements namely nitrogen and potassium

3105 90 90 --- Other”

18. On going through the entry of the above product in the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017, we find that the same appears at Entry No.182D of Schedule-I (on which the effective rate of GST is 5% (2.5% SGST + 2.5% CGST), which reads as under:

Schedule I – 2.5%

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
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182D	3105	<i>Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers other fertilisers; goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg; other than those which are clearly not to be used as fertilizers</i>
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In view of the above, looking to the composition of the product, it can be concluded that the product merits classification under Tariff Item No. **31059090-Other**, of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). **If said products are clearly used as fertilizers**, it will be covered under Entry at Sl. No.182D of Schedule-I of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 of the CGST Act, 2017 on which total rate of GST chargeable will be 5% (2.5% SGST +2.5% CGST).

B. “BIO-FERTILIZERS”:

19. Now, we come to the classification of “Bio fertilizers”. The definition of bio fertilisers as given in the dictionaries are as under:

Bio fertilizer is a substance which contains living micro organisms which, when applied to the seed, plant surfaces or soil, colonizes the rhizosphere or the interior of the plant and promotes growth by increasing the supply or availability of primary nutrients to the host plant. Bio-fertilizers add nutrients through the natural processes of nitrogen fixation, solubilizing phosphorus, and stimulating plant growth through the synthesis of growth-promoting substances.

Major types and source of Bio fertilizers are as under:

- a. Rhizobium is a bacterium living in the root of leguminous plants in symbiotic association. The root cells of leguminous plant contain a purple coloured pigment called leghemoglobin in which the bacteria float to fix atmospheric nitrogen.
- b. Azospirillum lipoferum is another bacterium which lives in loose association with some grasses, rice, maize and rice.
- c. Azotobacter, Clostridium, Aerobacter, Methanobacterium are free living bacteria which fix atmospheric nitrogen.
- d. The leaves of Azolla (an aquatic pteridophyte) have large number of plants of Anabaena (a blue green algae) which have the capacity to fix atmospheric nitrogen which is made available to Azolla.

- e. Many free living blue-green algae (Anabaena, Nostoc, Aulosira) fix atmospheric nitrogen. Nostoc is placed in the rice crop and provides nitrogen to rice.
- f. Mycorrhiza: It is the symbiotic relationship between roots of higher plants and fungi.

Further, *Vikaspedia* defines **“Bio fertilisers”** as under:

“In nature, there are a number of useful soil micro organisms which can help plants to absorb nutrients. Their utility can be enhanced with human intervention by selecting efficient organisms, culturing them and adding them to soiled directly or through seeds. The cultured micro organisms packed in some carrier material for easy application in the field are called bio-fertilisers. Thus the critical input in Bio fertilisers is the microorganisms.”

Further, as per *Vikaspedia*, benefits of Bio-fertilisers are as under:

“Bio-fertilisers are living microorganisms of bacterial, fungal and algal origin. Their mode of action differs and can be applied alone or in combination.

- *Biofertilizers fix atmospheric nitrogen in the soil and root nodules of legume crops and make it available to the plant.*
- *They solubilise the insoluble forms of phosphates like tricalcium, iron and aluminium phosphates into available forms.*
- *They scavenge phosphate from soil layers.*
- *They produce hormones and anti metabolites which promote root growth.*
- *They decompose organic matter and help in mineralization in soil.*
- *When applied to seed or soil, bio-fertilizers increase the availability of nutrients and improve the yield by 10 to 25% without adversely affecting the soil and environment.”*

As can be seen from the above definitions, animal fertilizers and organic fertilizers are similar in definition whereas vegetable fertilizers are those obtained from vegetable matter like compost and crop residues. Further, these fertilizers are mixed directly in the soil and can improve the soil structure (aggregation) so that the soil holds more nutrients and water, and therefore becomes more fertile. However, bio fertiliser consists of living micro-organisms which, when applied to seeds, plant surfaces, or soil, colonize the rhizosphere or the interior of the plant and promotes growth by increasing the supply or availability of primary nutrients to the host plant. Besides, as per *Vikaspedia*, bio fertilizers are produced by culturing of microorganisms and that such cultured microorganisms are packed in some carrier material for easy application in the field. Thus on comparing the definition as well as the uses of Bio fertilizers vis-a-vis Animal fertilizer/organic fertilizer/vegetable fertilizer, it can be seen that Bio fertilizers are completely distinct in nature and use to these fertilisers. In

view of these facts, we come to the conclusion that 'bio fertilisers' are not covered under the Sub-heading 3101 of the First Schedule to the Customs Tariff Act, 1975(15 of 1975).

20. Now, since bio-fertilizers are not covered under Sub-heading 3101, we need to find out whether the same is covered under sub-heading 3002 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). Sub-heading 3002 reads as under:

“3002 HUMAN BLOOD; ANIMAL BLOOD PREPARED FOR THERAPEUTIC, PROPHYLACTIC OR DIAGNOSTIC USES; ANTISERA, OTHER BLOOD FRACTIONS AND IMMUNOLOGICAL PRODUCTS, WHETHER OR NOT MODIFIED OR OBTAINED BY MEANS OF BIOTECHNOLOGICAL PROCESSES; VACCINES, TOXINS, CULTURES OF MICRO-ORGANISMS (EXCLUDING YEASTS) AND SIMILAR PRODUCTS;

3002 10 - Antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes:

--- Antisera;

3002 10 11 --- For diphtheria

3002 10 12 --- For tetanus

3002 10 13 --- For rabies

3002 10 14 --- For snake venom

3002 10 19 --- Other

3002 10 20 --- Hemoglobin blood globulins and serum globulins

--- Other :

3002 10 91 --- Of human origin

3002 10 99 --- Other

3002 20 - Vaccines for human medicine :

--- Single vaccines :

3002 20 11 --- For cholera and typhoid.

3002 20 12 --- For hepatitis.

3002 20 13 --- For tetanus.

3002 20 14 --- For polio.

3002 20 15 --- For tuberculosis.

3002 20 16 --- For rabies.

3002 20 17 --- For Japanese encephalitis.

3002 20 18 --- For whooping cough (pertusis).

3002 20 19 --- Other

--- Mixed vaccines :

3002 20 21 --- For diphtheria, pertusis and tetanus (DPT).

3002 20 22 --- For diphtheria and tetanus (DT).

3002 20 23 --- For measles, mumps and rubella (MMR).

3002 20 24 --- For typhoid-paratyphoid (TAB) or typhoid paratyphoid-cholera

(TABC)

3002 20 29 --- Other.

3002 30 00 - Vaccines for veterinary medicine.

3002 90 - Other :
 3002 90 10 --- Human blood.
 3002 90 20 --- Animal blood prepared for therapeutic, prophylactic or diagnostic uses
3002 90 30 --- Cultures of micro-organisms (excluding yeast).
 3002 90 40 --- Toxins.
 3002 90 90 --- Other”

21. On going through the entry of the above product in the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 (hereinafter referred to as the said notification), we find that the same appears at Entry No.61 of Schedule-II (on which the effective rate of GST is 12% (6% SGST + 6% CGST), which reads as under:

SCHEDULE II-6%

S. No.	Chapter/Heading/ Subheading / Tariff item	Description of goods
61	3002	Animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; toxins, cultures of micro-organisms (excluding yeasts) and similar products

On going through the column (3) of above entry, the entire portion of the description of goods except ‘**cultures of micro-organisms (excluding yeasts)**’ pertains to the medical field. On going through the said Sub-heading 3002, it is seen that ‘**cultures of micro-organisms (excluding yeasts)**’ appears at Tariff Entry No.30029030 of the First Schedule of the Customs Tariff Act, 1975 (51 of 1975). Further, as per Vikaspedia, bio-fertilizers are produced by culturing of microorganisms and that such cultured microorganisms packed in some carrier material for easy application in the field are called bio fertilisers. Thus, it can be seen that bio-fertilizers are produced by culturing of micro-organisms which is covered by the Entry ‘cultures of micro-organisms(excluding yeast)’ which falls under Sub-heading No.30029030.

22. In view of the above, looking to the process of manufacture/ production of bio-fertilizers, it can be concluded that the **product, “Bio-fertilizers”** manufactured and supplied by the applicant are classifiable under Tariff item No.30029030 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975) and covered under Entry at Sl. No.61 of Schedule-II of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 of the CGST Act, 2017 on which total rate of GST chargeable is 12% (6% SGST +6% CGST).

C. “Nitrogenous Mixture Fertilizers”:

23. “Nitrogenous Mixture Fertilizers” (“Granulated Nutrient Mixture”)- As per the applicant, the fertility status of a soil and crop often requires the application of more than one nutrient for the correction of nutritional disorders. So a mixed fertilizer is required to meet the requirements. It is a mixture of Ammonium Sulphate, Urea, Gypsum, Bentonite, Amino Acids and Bio-fulvic Potassium Humate. The applicant further stated that “Nitrogenous Mixture Fertilizers” are classified under HSN Code 31029090 as they are manufactured by mixing Ammonium Sulphate, Urea with Gypsum and, accordingly, are Nitrogenous fertilizers.

23.1 We are required to find out whether the product, “Nitrogenous Mixture Fertilizers” manufactured by the applicant fall under the Sub-heading 3102 as claimed by the applicant or otherwise. Sub-heading No. 3102 which falls under the Chapter-31 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), reads as under:

“3102 MINERAL OR CHEMICAL FERTILISERS, NITROGENOUS:

3102 10 00 - **Urea**, whether or not in aqueous solution
- Ammonium sulphate; double salts and mixtures of ammonium sulphate
and ammonium nitrate:
3102 21 00 -- Ammonium sulphate
3102 29 -- Other :
3102 29 10 --- Ammonium sulphonitrate
3102 29 90 --- Other
3102 30 00 - Ammonium nitrate, whether or not in aqueous solution
3102 40 00 - Mixtures of ammonium nitrate with calcium carbonate or other inorganic non-fertilising substances
3102 50 00 - Sodium nitrate
3102 60 00 - Double salts and mixtures of calcium nitrate and ammonium nitrate
3102 80 00 - Mixtures of urea and ammonium nitrate aqueous or ammoniacal solution
3102 90 - Other, including mixtures not specified in the foregoing sub-headings:
3102 90 10 --- Double salts or mixtures of calcium nitrate and magnesium nitrate
3102 90 90 --- Other”

Further, Chapter Note 2 of the Chapter 31 of the Customs Tariff Act, 1975, reads as under:

“2. Heading 3102 applies only to the following goods, provided that they are not put up in the forms or packages described in heading 3105:

(a) goods which answer to one or other of the descriptions given below:

- (i) sodium nitrate, whether or not pure;
- (ii) ammonium nitrate, whether or not pure;
- (iii) double salts, whether or not pure, of ammonium sulphate

- and ammonium nitrate;
- (iv) ammonium sulphate, whether or not pure;
- (v) double salts (whether or not pure) or mixtures of calcium nitrate and ammonium nitrate;
- (vi) double salts (whether or not pure) or mixtures of calcium nitrate and magnesium nitrate;
- (vii) calcium cyanamide, whether or not pure or treated with oil;
- (viii) urea, whether or not pure;

(b) fertilisers consisting of any of the goods described in (A) above mixed together;

(c) fertilisers consisting of ammonium chloride or of any of the goods described in (A) or (B) above mixed with chalk, gypsum or other inorganic non-fertilising substances;

(d) liquid fertilisers consisting of the goods of sub-paragraph (A) (ii) or (viii) above, or of mixtures of those goods, in an aqueous or ammoniacal solution.”

23.2 On going through the entry of the above product in the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017, we find that the same appears at Entry No.182A of Schedule-I (on which the effective rate of GST is 5% (2.5% SGST + 2.5% CGST), which reads as under:

Schedule I – 2.5%

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
182A	3102	Mineral or chemical fertilisers, nitrogenous, other than those which are clearly not to be used as fertilizers

23.3 In view of the above, looking to the composition of the product, Nitrogenous Mixture Fertilizers, it can be concluded that the **product, “Nitrogenous Mixture Fertilizers”** manufactured and supplied by the applicant consisting of Ammonium Sulphate and Urea mixed with Gypsum, Bentonite, Amino Acids and Bio-fulvic Potassium Humate and, hence, are classifiable under Tariff Item No.31029090- Other, of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). **If said products are clearly used as fertilizers**, it will be covered under Entry at Sl. No.182A of Schedule-I of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 of the CGST Act, 2017 on which total rate of GST chargeable will be 5% (2.5% SGST +2.5% CGST).

D. MIXTURE OF FERTILIZER:

24. The applicant further stated that the product, “Mixture of Fertilizer” is classified under HSN 31059090 as it is a mixture of fertilizers containing Nitrogen, Phosphorus, Potassium and Organic Content in as much as it

contained Urea, DAP, MOP, Gypsum, Rock Phosphate, Ammonium Sulphate, Bentonite, Dolomite, Amino Acids, Bio-Fulvic, Potassium Humate, Poultry and Organic Ash.

24.1 We are required to find out whether the product, "Mixture of Fertilizer" manufactured by the applicant fall under the Sub-heading 31059090 as claimed by the applicant or otherwise. Sub-heading No.3105 which falls under the Chapter-31 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), reads as under:

"3105 MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS NITROGEN, PHOSPHORUS AND POTASSIUM; OTHER FERTILISERS; GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF A GROSS WEIGHT NOT EXCEEDING 10 KG.

- 3105 10 00 - Goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg.
- 3105 20 00 - Mineral or chemical fertilisers containing the three fertilising elements nitrogen, phosphorus and potassium
- 3105 30 00 - Diammonium hydrogen ortho phosphate (diammonium phosphate)
- 3105 40 00 - Ammonium dihydrogen ortho phosphate (monoammonium phosphate) and mixtures thereof with diammonium hydrogen orthophosphate (diammonium phosphate)"
- 3105 40 00 - Ammonium dihydrogen ortho phosphate (monoammonium phosphate) and mixtures thereof with diammonium hydrogen orthophosphate (diammonium phosphate)
 - Other mineral or chemical fertilisers containing the two fertilising elements nitrogen and phosphorus:
- 3105 51 00 -- Containing nitrates and phosphates
- 3105 59 00 -- Other
- 3105 60 00 - Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium
- 3105 90 - Other :
- 3105 90 10 --- Mineral or chemical fertilisers containing two fertilising elements namely nitrogen and potassium
- 3105 90 90 --- Other"**

Further, Chapter note 6 of Chapter 31 of the Customs Tariff Act, 1975, reads as under:

"6. For the purposes of heading 3105, the term "other fertilisers" applies only to products of a kind used as fertilisers and containing, as an essential constituent, at least one of the fertilising elements nitrogen, phosphorus or potassium."

Further, the **Explanatory Notes to HSN** of Chapter Heading 31.05, read as under:

"This heading covers:

- (A) Ammonium dihydrogen orthophosphate (monoammonium phosphate) and diammonium hydrogen orthophosphate (diammonium phosphate), whether or not pure, and intermixture thereof, whether or not for use as fertilizers.

*It should be noted that the heading, does not include other chemically defined compounds not specified in headings 31.02 to 31.04 even if they would be used as fertilizers (e.g. potassium nitrate (**heading 28.34**), potassium phosphate (heading 28.35)).*

(B) Composite and complex fertilizers (other than separate chemically defined compounds), i.e. mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus or potassium. They are obtained by:

(1) **Mixing** together two or more fertilising products (even if those products, taken alone, are not classified in headings 31.02 to 31.04). Such mixtures include:

- (a) Calcined natural phosphates and potassium chloride.
- (b) Superphosphates and potassium sulphate.
- (c) Calcim cynamide and basic slag.
- (d) Ammonium sulphate, superphosphates and potassium phosphate.
- (e) Ammonium nitrate, superphosphates and potassium sulphate or chloride.

(2) **Chemical processes**, e.g. fertilisers obtained by treating natural calcium phosphates with nitric acid, removing the resulting calcium nitrate by cooling and centrifugation and, after separation, neutralising the solution with ammonia, adding potassium salts and finally evaporating to dryness. (This fertiliser is sometimes improperly referred to as potassium nitrophosphate, but is not a separate chemically compound.)

(3) **Both mixing and chemical process.**

It should be noted that headings 31.02, 31.03 and 31.04 include fertilisers containing as impurities very small quantities of a fertilising element other than the specified in the respective heading (nitrogen, phosphorus or potassium); such goods should not therefore be regarded as compound or complex fertilisers classifiable in this heading.

(C) All other fertilisers (other than separate chemically defined compounds), for example:

- (1) Mixture of fertilising substances (i.e. those containing nitrogen, phosphorus or potassium) with non-fertilising substances, e.g. sulphur. Many of those containing nitrogen or phosphorus are classified in heading 31.02 or 31.03 (see the Explanatory Notes to those headings) but the others are classified in this heading.
- (2) Natural potassic sodium nitrate fertiliser, a natural mixture of sodium nitrate and potassium nitrate.
- (3) Mixtures of animal or vegetable fertilisers with chemical or mineral fertilisers.

The heading excludes:

- (a) Separate chemically defined compounds not specified in Notes 2 to 5 to this Chapter but which might be used as fertilisers, e.g. ammonium chloride which falls in **heading 28.27**.
- (b) Spent oxide (**heading 38.25**).

The heading also covers the goods of this Chapter if put in tablets or similar forms or in packages of a gross weight not exceeding 10 kg.”

24.2 On going through the entry of the above product in the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017, we find that the same appears at Entry No.182D of Schedule-I (on which the effective rate of GST is 5% (2.5% SGST + 2.5% CGST), which reads as under:

Schedule I – 2.5%

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
182D	3105	<i>Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers other fertilisers; goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg; other than those which are clearly not to be used as fertilizers</i>

24.3 In view of the above, looking to the composition of the product, mixture of fertilizers, it can be concluded that the product, **‘Mixture of Fertilizers’** manufactured and supplied by the applicant consisting of Nitrogen, Phosphorus, Potassium and Organic Content in the form of Urea, DAP, MOP, Gypsum, Rock Phosphate, Ammonium Sulphate, Bentonite, Dolomite, Amino Acids, Bio-Fulvic, Potassium Humate, Poultry and Organic Ash. Hence, the said product merits classification under Tariff Item No. **31059090-Other**, of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). **If said products are clearly used as fertilizers**, it will be covered under Entry at Sl. No.182D of Schedule-I of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 of the CGST Act, 2017 on which total rate of GST chargeable will be 5% (2.5% SGST +2.5% CGST).

25. In light of the foregoing discussion, we rule as under:

RULING

- (I) The goods, viz. **“Organic Manure”** manufactured and supplied by the applicant, classifiable under Chapter sub-heading No.31059090 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). **If said products are clearly used as fertilizers**, it will be taxable under GST @ 5% (2.5% SGST +2.5% CGST) in terms of Sl. No. 182D of Schedule I of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, as amended.
- (II) The goods, viz. **“Bio-fertilizers”** manufactured and supplied by the applicant are classifiable under Chapter sub-heading No.30029030 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and will be taxable under GST @ 12% (6% SGST +6% CGST) in terms of Sl. No.61 of Schedule-II of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, as amended.
- (III) The goods, viz. **“Nitrogenous Mixture Fertilizers”** manufactured and supplied by the applicant are classifiable under Chapter sub-heading No.31029090 of the First Schedule to the Customs Tariff

Act, 1975(51 of 1975). **If said products are clearly used as fertilizers**, it will be taxable under GST @ 5% (2.5% SGST +2.5% CGST) in terms of Sl. No. 182A of Schedule I of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, as amended.

- (IV) The goods, viz. **'Mixture of Fertilizers'** manufactured and supplied by the applicant are classifiable under Chapter sub-heading No.31059090 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975). **If said products are clearly used as fertilizers**, it will be taxable under GST @ 5% (2.5% SGST +2.5% CGST) in terms of Sl. No. 182D of Schedule I of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, as amended.

(SANJAY SAXENA)
MEMBER

(MOHIT AGRAWAL)
MEMBER

Place: Ahmedabad

Date: 17.09.2020.