


<b>GUJARAT AUTHORITY FOR ADVANCE RULING,</b> GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/79/2020  
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/44)  
 Date: 17.09.2020

Name and address of the applicant	:	<b>M/s Shivam Agro Industries, Plot No.134,135,136, 146 &amp; 147, G.I.D.C. Ranasan, Ashram Cross Road, Tal.-Vijapur, Mehsana, Gujarat- 382870.</b>
GSTIN of the applicant	:	24ASFS0559B1Z6
Date of application	:	05.08.2019
Clause(s) of Section 97(2) of CGST/GGST Act, 2017, under which the question(s) raised.	:	<i>(a) Classification of goods and/or services or both.</i> <i>(b) Applicability of a notification issued under the provisions of the Act.</i>
Date of Personal Hearing	:	17.08.2020 (through video conferencing)
Present for the applicant	:	Shri Rahul Bhatt

### **BRIEF FACTS**

M/s. Shivam Agro Industries (herein after referred to as the 'applicant) is a partnership firm, engaged in the manufacturing and supply of a Zinc Ethylenediamine Tetra Acetic Acid (Zn EDTA-Chelate Zinc as Zinc EDTA), Iron Ethylenediamine Tetra Acetic Acid (Fe EDTA-Chelate Iron as Fe. EDTA) and other products, from their factory situated at Plot No.134, 135, 136, 146 &147, G.I.D.C., Ranasan, Vijapur and is having Goods and Services Tax Identification Number 24ABSFS0559B1Z6.

2. The applicant further submitted that the product, 'Zn EDTA' contains Zinc-12%+, Nitrogen-6.9%, EDTA Acid Salt and it has Ph level of 6-6.5. The product, 'Fe EDTA' contains Iron-12%+, Nitrogen-6.5%, EDTA Acid, Salt and Ph level of 6-6.5. The manufacturing process of said products is also submitted by them.

3. The applicant sells the products 'Zn EDTA' and 'Fe EDTA' in 25 Kgs. packing in HDPE Bags. A copy of labels affixed on bags of said products is also submitted by them.

4. The said products are covered under S. No. 1(g) of Schedule I, Part-A of the Fertilizer Control Order, 1985, as amended. Copy of said Schedule is enclosed.

5. The Applicant is registered under the Fertilizer Control Order, 1985. A Copy of Registration Certificate issued to the applicant by the Deputy Director of the Agriculture (Extension), District Mehsana, Gujarat under the Fertilizer Control Order, 1985 is also submitted by them.

6. The said products are used as fertilizer to overcome zinc deficiency and iron deficiency respectively, in plants as well as a source of zinc and iron respectively for those plants which require zinc and/or iron for their normal growth and higher yields.

7. In respect of classification of 'Micronutrient' under the erstwhile Central Excise regime, the Central Board of Excise and Customs (CBEC, now Central Board of Indirect Taxes and Customs-CBIC) issued clarification under various instructions/circulars, as follows:

- (i) It was clarified, vide instructions contained in CBEC's Circular No. 26/90-CX.3, dated 26-06-1990, that 'micro-nutrients' would be appropriately classifiable under heading No.38.08 as 'plant growth regulator'.
- (ii) After consultation with the Ministry of Agriculture and the Chief Chemist, CRCL (Central Revenue Control Laboratory), the CBEC, vide Circular No.79/79/1994-CX dated 21.11.1994 clarified that Micronutrients listed under Sr. No.1(F) of Schedule 1 Part(A) of the Fertilizer(Control) Order,1985 and their mixture (with or without N, P, K) as notified by the Central Government or a State Government would be appropriately classifiable under Heading No. 31.05 as "Other Fertilizers".
- (iii) Thereafter, vide Circular No.392/25/98-CX. dated 19-5-1998, CBEC, *inter-alia*, clarified that for the purpose of classification of micronutrients as 'Other Fertilizers' in heading 31.05 of CET, the scope of the term 'Other Fertilizers' has to be determined in the light of Note 6 of Chapter 31; that the specific exclusion of separate chemically defined compound as laid down in the HSN Explanatory Notes to Heading 3105.90, must also be borne in mind that if the micronutrient is a separate chemically defined compound, it will be classified under Chapter 31, it contains N, P or K, it will be classified under Chapter Heading 31.
- (iv) CBEC, vide Circular No. 1022/10/2016-CX, dated 6-4-2016, *inter-alia*, clarified that in the trade parlance, sale of micronutrients as 'micronutrient fertilizers' would not lead to classification thereof

under chapter 31 as fertilizers for the purpose of Central Excise Tariff; that for classification under chapter 31, at least one of the elements, namely- nitrogen, phosphorus or potassium should be an essential constituent of the fertilizer as per chapter note 6 of chapter 31. It is further clarified in the said Circular that there is no specific heading in the tariff for classification of micronutrients, however, where the micronutrient is a separate chemically defined compound, it will be classifiable under the heading for that chemically defined compound under chapter 28 or chapter 29. For example, some of the sulphates of micronutrients are specifically covered under CETH 2833.

Due to aforesaid clarifications given by the CBEC over a period of time, the issue of correct classification of the products, 'Zn EDTA' and 'Fe EDTA' and applicable rate of GST thereon, arises.

8. In above backdrops, the questions on which Advance ruling is sought are as follows:

- (i) *Whether the products, 'Zn EDTA' (Zinc Ethylenediamine Tetra Acetic Acid) and 'Fe EDTA' (Iron Ethylenediamine Tetra Acetic Acid) being supplied by the applicant are classifiable under Chapter Headings 2833, 2921, 3105 or 3808 or any other Chapter Heading of the Customs Tariff Act, 1962?*
- (ii) *Whether the said products, 'Zn EDTA' and 'Fe EDTA' being supplied by the applicant are covered under S. No. 182D of Schedule-I, S. No. 56 of Schedule-II, S. No. 40, 45 or 87 of Schedule-III, or any other S. No. of any of the Schedules of Notification No.1/2017-Central Tax(Rate) dated 28.06.2017(as amended) and corresponding Notification No.1/2017- State Tax (Rate) dated 30.06.2017(as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended)? and*
- (iii) *Whether the supply of the products, 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertilizer Control Order, 1985, will have any impact on the applicability of particular S. No. of the Schedules of the Notification No.1/2017-Central Tax(Rate) dated 28.06.2017(as amended) and corresponding Notification No.1/2017- State Tax (Rate) dated 30.06.2017 (as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), as determined under*

question No.(ii) above, on supply of such 'Zn EDTA' and 'Fe EDTA'. If yes, what would be the correct S. No. and Schedule of aforesaid Notification No. in case of supply of products, 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertilizer Control Order, 1985?

**9. APPLICANT'S UNDERSTANDING ON CLASSIFICATION OF THE PRODUCTS:**

**A. Chapter Heading 2833**

9.1 Chapter Heading 2833 covers "Sulphates; alums; peroxusulphates (persulphates)" and relevant part of it is reproduced below:

HS Code	Description of goods	Unit
(1)	(2)	(3)
2833	<b>Sulphates; alums; peroxusulphates (persulphates)</b>	
	- Sodium Sulphate:	
	-----	
	- Other sulphates:	
	-----	
2833 29	- Other:	
2833 29 10	- Ferrous sulphate	
	-----	
2833 29 90	----- Other	

9.2 The relevant Explanatory Notes of Harmonised System of Nomenclature are as follows:

"(7) **Zinc sulphate** (ZnSO4. 7H2O). Obtained by the action of dilute sulphuric acid on zinc, zinc oxide, zinc carbonate or roasted blende. White vitreous masses or in needle-shaped crystals. Used for lessening the natural buoyancy of ores in flotation processes; as a mordant in dyeing; for zinc-plating by electrolysis; as an antiseptic; for preserving wood; in the manufacture of driers, of lithopone(**heading 32.06**), **luminophores**(zinc sulphate activated by copper) (**heading 32.06**) and of various other zinc compounds.

(8) -----

(9) Iron Sulphates.

(a) **Ferrous sulphate** (FeSO4). Obtained by treating iron shavings with dilute sulphuric acid or as a by-product from the manufacture of titanium dioxide; it often contains impurities

*such as copper and ferric sulphates and arsenic. Very soluble in water; occurs mainly in the hydrated state (generally with 7 H<sub>2</sub>O) in light green crystals and turns brown on exposure to air: the action of heat transforms them into white anhydrous sulphate. Aqueous solutions are green but turn brownish on exposure to air.*

*Ferrous sulphate is used for preparing inks (iron inks), colours (Prussian blue), and the mixture (with slaked lime and sawdust) used for purifying coal gas; in dyeing; as a disinfectant, an antiseptic and a herbicide.*

- (b) **Ferric sulphate** (Fe<sub>2</sub> (SO<sub>4</sub>)<sub>3</sub>). Prepared from ferrous sulphate. Powder or as brownish slabs. Very soluble in water, with which it forms a white hydrate (with 9 H<sub>2</sub>O). Used for purifying natural waters or sewage, for coagulating blood in slaughterhouses, in iron-tanning and as a fungicide. As it lessens the buoyancy of ores, it is used as a floatation regulator. Used also as a mordant in dyeing and in the electrolytic production of copper or zinc.”

9.3 Though the Chapter Heading 2833 covers Zinc Sulphate and Ferrous Sulphate, in the understanding of the applicant, the said Chapter Heading covers separate chemically defined compound. Therefore, ‘Zn EDTA’ and Fe EDTA’, products being manufactured and supplied by the applicant may not be covered by Chapter Heading 2833 as these products are not separate chemically defined compound in as much as the product ‘Zn EDTA’ also contains around 6.9% Nitrogen and the product ‘Fe EDTA’ also contains around 6.5% Nitrogen.

## **B. Chapter Heading 2921**

10.1 Chapter Heading 2921 falls under Sub-Chapter IX Covering 'Nitrogen Function Compound' of Chapter 29. Chapter Heading 2921 covers “Amine-function compounds”. Tariff Item 2921 21 00 covers "Ethylenediamine and its salts".

10.2 The relevant Explanatory Notes of Harmonised System of Nomenclature are as follows:-

**"Ethylenediamine**(NH<sub>2</sub>.CH<sub>2</sub>.CH<sub>2</sub>.NH<sub>2</sub>). Caustic, colourless liquid with a faint ammoniacal odour; its salt"

10.3 The applicant submitted that Ethylenediamine is only one of the inputs used in manufacture of 'Zn EDTA' and 'Fe EDTA'. As the products 'Zn EDTA' and 'Fe EDTA' are not separately defined chemical compounds, the same would not fall under Tariff Item 2921 21 00.

### **C. Chapter Heading 3105**

11.1 Chapter Heading 3105 covers “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablet or similar forms or in packages of a gross weight not exceeding 10 Kg.”

11.2 Note 6 of Chapter 31 of the Customs Tariff act, 1975 reads as follows:

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

11.3 The applicant further submitted that the product "Zn EDTA" manufactured and supplied by the applicant contains around 6.9% Nitrogen as an essential constituent, apart from Zinc and other material and the product, "Fe EDTA" manufactured and supplied by the applicant contains around 6.5% Nitrogen as an essential constituent, apart from Iron and other material. The said Nitrogen is contained in EDTA. Once the 'Zn EDTA' and 'Fe EDTA' are delivered at the plant system, EDTA breaks out, resulting in release of nitrogen. Further, these products manufactured and supplied by the applicant are known as 'Micronutrient Fertilizers'. The products, 'Zn EDTA' and 'Fe EDTA' are used as fertilize to overcome zinc deficiency and iron deficiency respectively in plants, as well as a source of zinc and iron respectively for those plants which require zinc and/or iron for their normal growth and higher yields. Therefore, the products 'Zn EDTA' and 'Fe EDTA' satisfy all the requirements of being classified as "other fertilizers" under Chapter Heading 3105 in terms of Chapter Note 6 of Chapter 31 of the Customs Tariff Act, 1975.

11.4 Hon'ble CESTAT had occasion to examine the proper classification of micronutrient in the case of Commissioner of Central Excise and Services Tax Hyderabad-IV Versus Aries Agrovvet Industries Ltd., reported at 2017 (7) G.S.T.L. 317 (Tri.-Hyd.). In this case, after referring to various Circulars issued by the CBEC, Hon'ble CESTAT held as follows:

*"8.6 It is interesting to note that C.B.E.C. found it necessary to issue yet one more Circular No. 1022/10/2016-X, dated 6-4-2016, on the very issue of*

classification of micronutrients, plant growth regulators, etc. In the first para itself, the circular acknowledges that the issue of classification of these items remain a disputed area in Central Excise. On the basis of opinion obtained from Indian Agricultural Research Institute (IARI), Central Excise Tariff explanatory notes, nature, usage, etc., the C.B.E.&C. has clarified, inter alia, that micronutrients are essential nutrients and required in small quantities for the normal growth and development of plants containing elements like iron, Manganese, Zinc, Copper, Boron, Molybdenum, Nickel, etc.. Board has also acknowledged that these micronutrients are sold in the market as micronutrient fertiliser. It has, however, clarified that for classification under Chapter 31, at least one of elements viz. Nitrogen, Phosphorus or Potassium should be an essential constituent of the fertilizer. Board has also clearly differentiated plant growth regulators as "organic compound other than nutrients which effect the physiological process of growth and development in plants". Board has further clarified, in para 6 therein, that its past circulars on the subject, viz. dated 21-11-1994 and 19-5-1998 are rescinded and that classification of micronutrients, etc., shall be governed by the present circulars.

8.7 As per the aforesaid C.B.E.& C. Circular dated 6-4-2016, plant growth regulators are defined as organic compounds other than nutrients that affect the physiological processes in plants, by hormonal action in promoting inhibiting or modifying growth and development. On the other hand, micronutrients, as explained in the very same circular, are essential nutrients, like iron, Manganese, Zinc, Copper, Boron etc., that are required in small quantities for the normal growth and development of plants. Micronutrients thus cannot modify inhibit retard the growth of plants like plant growth regulators, they only promote normal growth.

8.8 Applying the above findings, it clearly emerges that the impugned products definitely do contain more than one of the essential nutrients listed in the circular, they have also contained recognisable percentage of nitrogen. This being so, the disputed items are certainly micronutrients. In view of presence of nitrogen, and also considering that they are mixtures and not separate chemically defined compounds, the said goods would therefore come under the ambit of micronutrient fertilizers and will then require to be classified as in "other fertilisers" in CETH 31.05."

11.5 Similarly, in the case of CIBA India Ltd. Versus Commissioner of Customs, Chennai, reported at 2009 (237) E.L.T. 207 (Tri.-Chennai), Hon'ble CESTAT has held as follows :-

".....The imported item contains Ethylene Diamine Tetra-acetic Acid (EDTA) which is a chelating agent and also contains nitrogen, zinc, manganese and iron. There is no dispute that it is used as a fertilizer. As per Note 6 to Chapter 31 of the CETA, 1985, the term "other fertilizers" applies only to products of a kind used as fertilizers containing, as an essential constituent (emphasis applied) at least one of the fertilizing elements nitrogen, phosphorus and potassium. The department has relied upon clarification issued by the Regional Fertilizer Control Laboratory, Chennai under cover of letters dated 30-10-2006 and 4-1-2007 that the products are micronutrient fertilizers under the Fertilizer Control Order and incidentally contained small quantities of nitrogen because of the chemical composition and cannot be claimed as primary source of nitrogen, to hold that nitrogen is not an essential constituent so as to classify the goods under Chapter 31. However, we note that the International Institute of Biotechnology and Toxicology (IIBT) has certified on 19-12-2006 that during the process of supply of potential micronutrients for the plant growth, once the micronutrients are delivered at the plant system EDTA breaks out resulting in elemental nitrogen

*which further helps to promote the plant growth and that without nitrogen, it is not possible to deliver the metal ions or micronutrients to the plant system. This certificate was placed by the appellants before the authorities below. Further, reliance placed by the Revenue on the specific exclusion of separate chemically defined compounds from Heading 3105.90 in the HSN Explanatory Notes (the EDTA chelate is separate chemically defined compound) is also misplaced for the reason that HSN Explanatory Notes to Chapter 29 clearly state that separate chemically defined compound containing other substances deliberately added during or after their manufacture are excluded from Chapter 29 and the product in dispute contains zinc/manganese/iron which is deliberately added. In the light of the above discussion, we hold that the imported item falls for classification under CTH 3105.90 of the Customs Tariff Act, 1975 as micronutrient and not under CTH 29.22,-----".*

11.6 Therefore, in the understanding of the applicant, the products, viz. 'Zn EDTA' and 'Fe EDTA', being manufactured and supplied by the applicant are appropriately classifiable under Chapter Heading 3105.

#### **D. Chapter Heading 3808**

12.1 Chapter Heading 3808 covers 'insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packaging for retail sale or as preparations or articles (for examples, sulphur-treated bands, wicks and candles, and fly-papers.

12.2 The CBEC, vide Circular No. 26/90-CX.3 dated 26-6-1990 clarified that 'micro-nutrients' would be appropriately classifiable under heading No. 38.08 as 'plant growth regulator'. However, this circular has since been withdrawn vide CBEC Circular No. 79/79/94-CX dated 21.11.1994.

12.3 Further, the difference between 'micro-nutrient' and 'plant growth regulator' has been explained by Hon'ble CESTAT in the case of Commissioner of Central Excise and Services Tax, Hyderabad-IV Versus Aries Agrovat Industries Ltd. (*supra*).

12.4 Therefore, in the understanding of the applicant, 'ZN EDTA' and 'Fe EDTA' products being manufactured and supplied by the applicant would not be covered under Chapter Heading 3808.

#### **13. APPLICANT'S UNDERSTANDING ON APPLICABILITY OF S. NO. AND SCHEDULE OF NOTIFICATION ON SUPPLY OF PRODUCTS:**

##### **A. S. No. 182 D of Schedule-I:**

13.1 Sr. No. 182D of Schedule-I of Notification No. 1/2017-Central Tax(Rate) dated 28.06.2017 (as amended) and corresponding Notification No.1/2017-



State Tax (Rate) dated 30.06.2017 (as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), reads as follows:

SCHEDULE I-2.5%

<b>S. No.</b>	<b>Chapter/Heading/ Subheading / Tariff item</b>	<b>Description of goods</b>
182D	3105	<i>Mineral or chemical fertilizers containing two or three fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 Kgs.; <b>[other than those which are clearly not to be used as fertilizers]</b></i>

13.2 As already submitted, the products, viz. 'ZN EDTA' and 'Fe EDTA' being manufactured and supplied by the applicant are appropriately classifiable under Chapter Heading 3105 in the understanding of the applicant, the said goods would be covered by S. No. 182D of Schedule-I of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notifications issued under GGST Act, 2017 and IGST Act, 2017.

**B. S. No. 56 of Schedule-II:**

14.1 Sr. No. 56 of Schedule-II of Notification No. 1/2017-Central Tax(Rate) dated 28.06.2017 (as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017 (as amended) and Notification No.1/9017-Integrated Tax (Rate) dated 28.06.2017 (as amended) reads as follows:

SCHEDULE II-6%

<b>S. No.</b>	<b>Chapter/Heading/ Subheading/Tariff item</b>	<b>Description of goods</b>
56.	28 or 38	<i>Micronutrients, which are covered under serial number1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under the Fertilizer Control Order, 1985.</i>

14.2 In case, it is held that the products, 'ZN EDTA' and 'Fe EDTA' being manufactured and supplied by the applicant are appropriately classifiable under Chapter 28 or 38 would be covered by S. No.56 of Schedule-II of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notifications issued under GGST Act, 2017 and IGST Act, 2017, in as much as the products, 'ZN EDTA' and 'Fe EDTA' are (i) 'Micronutrients'; (ii) are covered under *serial number1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985*; and (iii) are manufactured by the applicant who is registered under the Fertilizer Control Order, 1985.

**C. S. No.39,40, 45 or 87 of Schedule-III:**

15.1 Sr. Nos. 39,40, 45 or 87 of Schedule-III of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017 (as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended) reads as follows:

*SCHEDULE-III-9%*

<b>S. No.</b>	<b>Chapter/Heading/ Subheading/ Tariff item</b>	<b>Description of goods</b>
39.	28	<i>All inorganic chemicals other than those specified in the Schedule for exempted goods or other Rate Schedules for goods including Fertilizer grade Phosphoric acid.</i>
40.	29	<i>All organic chemicals other than gibberellic acid.</i>
45.	3105	<i>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. <b>which are clearly not to be used as fertilizers.</b></i>
87.	3808	<i>Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products other than bio-pesticides mentioned against S. No. 78A of schedule-II.</i>

15.2 In the understanding of the applicant, even if the products, 'ZN EDTA' and 'Fe EDTA' are held to be classifiable under Chapter 28, 29 or 38, the same would be specifically covered by S. No.56 of Schedule-II of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), as already submitted above, and therefore these products would not be covered by S. No. 39, 40 or 87 of Schedule-III of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notifications issued under the GGST Act, 2017 and IGST Act, 2017.

15.3 The products, 'ZN EDTA' and 'Fe EDTA' are micronutrient fertilizers and are used as micronutrient fertilizers. In the understanding of the applicant, S. No.45 of Schedule-III of the Notification No.1/2017-Central Tax (Rate) is applicable to those goods falling under Chapter Heading 3105, "*which are clearly not to be used as fertilizers*". Thus, to be covered by this S. No., the products should be such which are clearly not to be used as fertilizers. However, it is pertinent to note that S. No. 45 of Schedule-III do not cast any responsibility on the supplier to ensure end use of the product. Therefore, this S. No. would not be applicable to those goods of Chapter Heading 3105, which

are generally used as fertilizers but some of the buyers may use it as other than fertilizers.

**16. APPLICANT'S UNDERSTANDING ON SUPPLY OF PRODUCTS TO THE RECIPIENTS NOT REGISTERED UNDER THE FERTILIZERS CONTROL ORDER, 1985:**

**A. Classification under Chapter Heading 3105:**

16.1 The goods falling under Chapter Heading 3105 are covered under two different S. Nos. of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notifications issued under the GGST Act, 2017 and the IGST Act, 2017, as follows:

*SCHEDULE-I*

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

*SCHEDULE-III*

<b>S. No.</b>	<b>Chapter/Heading/ Subheading/ Tariff item</b>	<b>Description of goods</b>
45.	3105	<i>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. <b>which are clearly not to be used as fertilizers.</b></i>

16.2 It is to submit that neither S. No.182D of Schedule-I nor S. No. 45 of Schedule-III of aforesaid Notifications provides for end use based exemption. The wordings "which are clearly not to be used as fertilizers" are applicable to those products which are not used as fertilizers in normal course. Both the S. No. 182D of Schedule-I and S. No. 45 of Schedule -III of the aforesaid Notifications are product specific and not transaction specific. Therefore, once the products 'Zn EDTA' and 'Fe EDTA' being manufactured and supplied by the applicant are found to be covered under S. No. 182D of Schedule-I of aforesaid Notifications, the same would not cease to be covered by the said S. No. merely because a particular buyer/recipient is not registered under the Fertiliser Control Order, 1985. In fact, there is no such condition under the aforesaid Notifications specifying that the goods should be supplied to buyers

registered under the Fertiliser Control Order, 1985 so as to be eligible to be covered by S. No. 182D of Schedule-I of the said Notification.

16.3 Therefore, in the understanding of the applicant, the supply of products, 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertiliser Control Order, 1985, will not have any impact on the applicability of S. No. 182D of Schedule-I of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), and corresponding Notifications issued under the GGST Act, 2017 and IGST Act, 2017.

**B. Classification as 'micronutrient' under Chapter 28 or 38:**

17.1 The 'micronutrients' falling under Chapter 28 or 38 are covered under S. No. 56 of Schedule-II of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), and corresponding Notifications issued under the GGST Act, 2017 and IGST Act, 2017, as follows:

*SCHEDULE-II*

<b>S. No.</b>	<b>Chapter/Heading/ Subheading / Tariff item</b>	<b>Description of goods</b>
56.	28 or 38	<i>Micronutrients, which are covered under serial number1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under the Fertilizer Control Order, 1985.</i>

17.2 It is to submit that in order to be covered by S. No. 56 of Schedule-II of the aforesaid Notifications, the products should be-

- (i) micronutrients [Iron (Fe), Manganese (Mn), Zinc (Zn), Copper (Cu), Boron (B), Molybdenum (Mo), Nickel (Ni) and Chlorine (Cl)] are included in the category of micronutrients, as clarified by CBEC vide Circular No.1022/10/2016-CX dated 06.04.2016);
- (ii) covered under serial number1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985; and
- (iii) manufactured by the manufacturers, which are registered under the Fertilizer Control Order, 1985.

There is no other requirement or condition which is required to be fulfilled to be eligible to be covered by said serial number.

17.3 It is to submit that in case it is held that the products 'Zn EDTA' and 'Fe EDTA' being manufactured and supplied by the applicant fall under Chapter

28 or 38, the same would be covered by S. No. 56 of Schedule-II of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), inasmuch as all the three conditions of the said S. No. narrated above are fulfilled.

17.4 Further, as there is no condition under S. No. 56 of Schedule-II of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) that the buyer/recipient of 'micronutrient fertilizer' should also be registered under the Fertiliser Control Order, 1985, in the understanding of the applicant, the supply of products, 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertiliser Control Order, 1985, will not have any impact on the applicability of S. No. 56 of Schedule-II of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), and corresponding Notifications issued under the GGST Act, 2017 and IGST Act, 2017.

18. At the time of personal hearing held through Video Conferencing on 17.08.2020, the Authorised Representative of the applicant, Shri Rahul Bhatt, reiterated the facts as stated in the Application as mentioned herein above.

18.1 Further, they, vide their letter dated 28.08.2020, have submitted the additional submission as under:

(A) They have relied upon the decision of the Hon'ble CESTAT in the case of Commissioner of Central Excise & Service Tax, Hyderabad-IV Versus Aries Agrovat Industries Ltd. [Final order No. A/30767-30768/2017 dated 19.06.2017 in Appeal Nos. E/125-126/2007 reported at 2017 (7) G.S.T.L.317 (Tri.-Hyd.)], wherein the Hon'ble Tribunal, *inter alia* considered various Circulars, including Circular No.1022/10/2016-CX dated 06.04.2016, and held that the products Chelamin, Agromin, Chelafer and Chelacop would come under the ambit of micronutrient fertilizers and will then required to be classified as in "other fertilizers" in CETH 31.05.

(B) The aforesaid view has been upheld in the subsequent decision of the Hon'ble CESTAT in case of Shivshakthi Bio Planteec td. Versus Commissioner of Central Excise, Customs & Service Tax, Hyderabad-I [Final Order no. A/3048—30483/2018 dated 31.01.2018 in Appeal Nos. E/27052, 27061/2013 and 22958-22959/2014, reported at 2019(20) G.S.T.L.243(Tri.-Hyd.)].

(C) The Assistant Commissioner (CPIO), Office of the Commissioner of Central tax, Central Excise & Service Tax, Medchal Commissionerate, vide Order No.15/2020 (RTI) dated 27.08.2020 (copy enclosed), has, *inter alia* informed as follows:-

(i) The Final Order No. A/30767-30768/2017 dated 19.06.2017 in Appeal Nos. E/125-126/2007 in the case of Commissioner of Central Excise & Service Tax, Hyderabad-IV Versus Aries Agrovat Industries Ltd. has been accepted on merits in review by the Commissioner, Medchal Commissionerate on 19.07.2020 and concurrence for acceptance of the above Final Order was accorded by the Chief Commissioner, Hyderabad Zone, vide letter C. No.131/2017-CC(HZ)Rev-CE-Med-Con dated 31.07.2017.

(ii) In the case of Shivshakthi Bio Planteec Ltd. Versus Commissioner of Central Excise, Customs & Service Tax, Hyderabad-I,

(a) Final Order No. A/3048—30483/2018 dated 31.01.2018 in Appeal Nos. E/27052, 27061/2013 and 22958-22959/2014, **to the extent of classification of product has been accepted.** reported at 2019(20) G.S.T.L.243(Tri.-Hyd.).

(b) -----

(c) -----.

(D) It is evident from the above that the aforesaid decisions of the Hon'ble CESTAT, classifying the Micronutrient Fertilizers under Chapter Heading 3105, have been accepted by the Department on Merit. As such, the issue of classification of Micronutrient Fertilizers under Chapter Heading 3105, have been accepted by the Department on Merit. As such, the issue of classification of Micronutrient Fertilizers under Chapter Heading 3105 has attained finality.

(E) The contents of the product CHELAMIN manufactured by Aries Agrovat Industries Ltd. is "Zinc as Zn- EDTA =12%" whereas the contents of the product, CHELAFER manufactured by Aries Agrovat Industries Ltd. is "Fe as FE-EDTA=12%". Both these products have been held by the Hon'ble Tribunal to be correctly classifiable under CETH 31.05. The copies of product information literature of CHELAMIN and CHELAFER available on the website of Aries Agrovat Industries Ltd. have already been submitted.

(F) The Advance Ruling sought by the applicant before the authority is in respect of the products 'Zn EDTA' and 'Fe EDTA' manufactured by the applicant. The product 'Zn EDTA' manufactured by the applicant contain Zinc 12%+, Nitrogen-6.9%, EDTA acid, Salt and it has Ph Level of 6-6.5. The product 'Fe EDTA' manufactured by the applicant contain Iron 12%+, Nitrogen-6.5%, EDTA acid, Salt and Ph Level 6-6.5. Thus, the product 'Zn EDTA' manufactured by the applicant is similar to the product CHELAMIN and the product 'Fe EDTA' manufactured by the applicant is similar to the product CHELAFER, in respect of which the Hon'ble Tribunal has already held that the correct classification is under CETH 31.05, which has already attained finality in as much as the said decision have been accepted by the department on Merit.

(G) In view thereof, the applicant has requested to kindly consider holding the correct classification of Micronutrient Fertilizers viz. 'Zn EDTA' and 'Fe EDTA' being manufactured and supplied by the applicant, under Chapter heading 31.05. It may kindly also be held that the said products attract GST @5% (CHST 2.5%+ SGST 2.5% or IGST 5%) under Sr. No. 182D of Schedule-I of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, as amended, and corresponding Notification issued under the Gujarat GST Act, 2017.

### **DISCUSSION & FINDINGS:**

19. We have considered the submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing and additional submission dated 28.08.2020. We have also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

19.1 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.

20. The applicant has sought for advance ruling in respect of following questions:

- (i) *Whether the product 'Zn EDTA' (Zinc Ethylenediamine Tetra Acetic Acid) and 'Fe EDTA' (Iron Ethylenediamine Tetra Acetic Acid) Acetic Acid) being supplied by the applicant are classifiable under Chapter Heading 2833, 2921, 3105 or 3808 or any other Chapter Heading of the Customs Tariff Act, 1962?*
- (ii) *Whether the products, 'Zn EDTA' and 'Fe EDTA', being supplied by the applicant are covered under S. No. 182D of Schedule-I, S. No. 56 of Schedule-II, S. No. 40, 45 or 87 of Schedule-III, or any other S. No. of any of the Schedules of Notification No.1/2017-Central Tax(Rate) dated 28.06.2017(as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017(as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended)? and*
- (iii) *Whether the supply of the products 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertilizer Control Order, 1985, will have any impact on the applicability of particular S. No. of the Schedules of the Notification No.1/2017-Central Tax(Rate) dated 28.06.2017(as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017 (as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), as determined under question No.(ii) above. If yes, what would be the correct Sl. No. and Schedule of aforesaid Notification No. in case of supply of products, 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertilizer Control Act, 1985?*

21. Thus, in the instant case, moot points to be decided are the classification of the products, viz. 'Zn EDTA' and 'Fe EDTA' and applicability of correct S. No.

of Schedules under Notification No.1/2017-Central Tax(Rate) dated 28.06.2017(as amended) and corresponding Notifications issued under GGST Act, 2017 and IGST Act, 2017.

22. Ongoing through the submission given by the applicant, we find that they are engaged in the manufacture and supply of a Zinc Ethylenediamine Tetra Acetic Acid (Zn EDTA-Chelate Zinc as Zinc EDTA), Iron Ethylenediamine Tetra Acetic Acid (Fe EDTA-Chelate Iron as EDTA) and other products. The product 'Zn EDTA' contains Zinc 12%+, Nitrogen 6.9%&EDTA Acid Salt and it has Ph level of 6 - 6.5. The product 'Fe EDTA' contains Iron-12%+, Nitrogen-6.5% &EDTA Acid Salt and it has Ph level of 6-6.5. They sell the products, 'Zn EDTA' and 'Fe EDTA' in 25 Kgs. packing in HDPE Bags.

23. The applicant submitted that the products, 'Zn EDTA' and 'Fe EDTA' are covered under Serial No. 1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985 (as amended). They further submitted that the Applicant is registered under the Fertilizer Control Order, 1985 (as amended); that the said products are used as fertilizer to overcome zinc deficiency and iron deficiency respectively, in plants as well as a source of zinc and iron respectively for those plants which require zinc and/or iron for their normal growth and higher yields.

24. In order to determine the tax liability on the supply of said products, we are required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 prescribing the rates of Central 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, Explanations (iii) and (iv) of the said Notification read 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.*

25. Before deciding the correct classification of the products in question, it is necessary to analyse characteristics of fertilizer, plant growth regulator,



micronutrients 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.

26. 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.

***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.

***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, Abscissic acid(ABA) and Ethylene. They work together coordinating the growth and development of cells. Ethylene is mainly involved in abscission and flower seiscence 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; **Abscissic 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.

#### **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 growth 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.

27. We further note that **Micronutrients** are essential nutrients that are required in small quantities for the normal growth and development of plants. As on today, iron (Fe), manganese (Mn), zinc (Zn), copper (Cu), boron (B), molybdenum (Mo), nickel (Ni) and chlorine (Cl) are included in this category. These elements are also called minor or trace elements, but this does not mean

that they are less important than macronutrients. These micronutrients are sold in the market as ‘micronutrient fertilizer’ supplying one or more of the eight essential nutrients listed above, namely iron to chlorine. However, in the trade parlance sale of micronutrients as ‘micronutrient fertilizers’ would not lead to classification thereof under chapter 31 as fertilizers for the purposes of GST. For classification under chapter 31, at least one of the elements, namely-nitrogen (N), phosphorus (P) or potassium (K) should be an essential constituent of the fertilizer as per chapter note 6 of chapter 31.

27.1 Further, there is no specific heading in the tariff for classification of micronutrients. However, where the micronutrient is a separate chemically defined compound, it will be classifiable under the heading for that chemically defined compound under chapter 28 or chapter 29. For example, some of the sulphates of micronutrients are specifically covered under CETH 2833.

27.2 We further note that **Plant Growth Regulators** are defined as organic compounds other than nutrients that affect the physiological processes of growth and development in plants when applied in low concentration. Plant growth regulators are active at low concentrations in promoting, inhibiting or modifying growth and development. They are either natural or synthetic compounds that are applied directly to a target plant to alter its life processes and its structure to improve quality, increase yields, or facilitate harvesting etc. These are in the nature of plant hormones and classical of them are auxins, cytokinins, gibberellins (all three promoters) and abscisic acid, ethylene (both inhibitors). PGRs in the list are not exhaustive and more growth substances are being discovered in this category. PGRs are naturally produced by plants and they act by controlling or modifying, plant growth processes such as formation of leaves and flowers, elongation of stems, development and ripening of fruits etc. Synthetic organic chemicals are also used as PGRs and are industrially produced and marketed.

27.3 It would, thus, be noted that PGRs are different from nutrients, be it macronutrient or micronutrient. PGR as a substance is specifically covered under HSN 3808. More specifically, Plant Growth Regulators are covered under tariff item 3808 9340.

27.4 We further note that **Fertilizers** are classified under chapter 31 of the Customs Tariff and for this purpose they may, *inter alia*, be minerals or chemical fertilizers nitrogenous (CTH 3102), phosphatic (CTH 3103), potassic (CTH 3104) or fertilizers consisting of two or three of the fertilizing elements namely nitrogen, phosphorous and potassium; other fertilizers (CTH 3105). For the purpose of classification of any product as “other fertilizers”, chapter

note 6 of Chapter 31 is relevant which provides that the term “other fertilizers” applies only to products of a kind used as fertilizers and contain, as an essential constituent, at least one of the elements nitrogen, phosphorus or potassium. It is quite clear that for any product to merit classification under CTH3105 as other fertilizers, the product must have nitrogen or phosphorus or potassium or their combination as **an essential constituent** providing the essential character to the product. The chemical elements – nitrogen, phosphorus and potassium are also referred as macronutrients or primary fertilizer elements and are required in higher quantity by the plants.

27.5 Thus, any product where the essential elements are not nitrogen or phosphorus or potassium or their mixture, would not merit classification under CTH 3105. Further, the specific exclusion of separate chemically defined compounds as laid down in chapter note 1 (b) and in the HSN Explanatory Notes to the heading 3105.90, reinforce the above conclusion.

27.6 Further, **Mixtures** of micronutrients/multi-micronutrients with fertilisers shall be classified according to their essential characters and general rules for interpretation of the schedule to the tariff. Where the essential constituent giving character to the mixture is one or more of the three elements namely Nitrogen, Phosphorous or Potassium, the mixture shall be classified under any of the heading of Chapter 31, depending upon its composition. On the other hand, where the essential character of the product is that of mixture of micronutrients/multi-micronutrients having predominately trace elements, it shall be classified under CTH 3824 99 90 as chemical products not elsewhere specified or included, which reads as under

*“3824 PREPARED BINDERS FOR FOUNDRY MOULDS OR CORES; CHEMICAL PRODUCTS AND PREPARATIONS OF THE CHEMICAL OR ALLIED INDUSTRIES (INCLUDING THOSE CONSISTING OF MIXTURES OF NATURAL PRODUCTS), NOT ELSEWHERE SPECIFIED OR INCLUDED*

3824 99 -- Other:

--- Ammoniacal gas liquors and spent oxide produced in coal gas purification, case hardening compound, heat transfer salts; mixture of diphenyl and diphenyl oxide as heat transfer medium, mixed polyethylene glycols; salts for curing or salting, surface tension reducing agents:

3824 99 90 --- Other”

28. Keeping in mind the discussion made herein above with respect to Fertilizers, Plant Growth Regulators and Micronutrients, we shall now move on to discuss the said products and further to classify them accordingly.

28.1 As stated by the applicant that the products, viz. ‘ZN EDTA’ and ‘Fe EDTA’ are used as fertilizer to overcome zinc deficiency and iron deficiency

respectively, in plants as well as a source of zinc and iron respectively for those plants which require zinc and/or iron for their normal growth and higher yields. Further, 'Zn EDTA' contains Zinc 12%+, Nitrogen 6.9% & EDTA Acid Salt and 'Fe EDTA' contains Iron 12%+, Nitrogen 6.5% & EDTA Acid Salt. The applicant further submitted that the said Nitrogen is contained in EDTA. Once the 'Zn EDTA' and 'Fe EDTA' are delivered at the plant system, EDTA breaks out, resulting in release of nitrogen.

28.2 In view of the above, we conclude that the products, viz. Zinc Ethylenediamine Tetra Acetic Acid (Zn EDTA-Chelate Zinc as Zinc EDTA) and Iron Ethylenediamine Tetra Acetic Acid (Fe EDTA-Chelate Iron as Fe. EDTA) are 'micronutrients' and merits classification under Chapter sub-heading **3824 99 90** of the First Schedule to the Customs Tariff Act, 1975.

29. Having decided the classification, the next issue to be decided is of the applicable rate of GST on products in hand. We find that the micronutrients products, viz. "Zn EDTA" and "Fe EDTA" manufactured and supplied by the applicant are covered under Sl. No.7 & 8 of 1(g) of Schedule I (Micronutrients), Part-A of the Fertilizer Control Order, 1985, as amended and the Applicant is also registered under the Fertilizer Control Order, 1985. Under GST, the 'micronutrients' classifiable under Chapter 28 or 38, which are covered under serial number 1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under the Fertilizer Control Order, 1985 are covered under Sl. No. 56 of Schedule-II of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), and corresponding Notifications issued under the GGST Act, 2017 and IGST Act, 2017, as follows:

SCHEDULE-II-6%

S. No.	Chapter/Heading/ Subheading / Tariff item	Description of goods
56.	28 or 38	Micronutrients, which are covered under serial number 1(g) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under the Fertilizer Control Order, 1985.

29.1 In view of the above, we hold that the products, viz. "Zn EDTA" and "Fe EDTA" manufactured and supplied by the applicant are classifiable under HSN 3824 and are covered under Entry at Sl.No.56 of Schedule-II of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 as amended, on which total rate of GST chargeable is 12% (6% SGST +6% CGST).

30. We have also perused the Case Laws cited by the applicants, viz. (i) Commissioner of Central Excise and Services Tax Hyderabad-IV Versus Aries Agrovat Industries Ltd., reported at 2017 (7) G.S.T.L. 317 (Tri.-Hyd.) and CIBA India Ltd. Versus Commissioner of Customs, Chennai, reported at 2009 (237) E.L.T. 207 (Tri.-Chennai), wherein Hon'ble CESTAT dealt with dispute of the classification of micronutrients in Central Excise Regime and, hence, ratio of the same cannot be applied in GST regime.

31. The applicant has further contended that there is no condition under S. No. 56 of Schedule-II of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) that the buyer/recipient of 'micronutrient fertilizer' should also be registered under the Fertiliser Control Order, 1985, in the understanding of the applicant, the supply of products, 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertiliser Control Order, 1985, will not have any impact on the applicability of S. No.56 of Schedule-II of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), and corresponding Notifications issued under the GGST Act, 2017 and IGST Act, 2017. We agree with the above contention of the applicant and hold that the supply of the products 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertilizer Control Order, 1985, will have no impact on the applicability of particular S. No. of the Schedules of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017 (as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), as there is no such condition prescribed in said entry under said notifications.

33. In light of the above discussions, we rule as under –

### **R U L I N G**

Question 1: Whether the product 'Zn EDTA' (Zinc Ethylenediamine Tetra Acetic Acid) and 'Fe EDTA' (Iron Ethylenediamine Tetra Acetic Acid) Acetic Acid) being supplied by the applicant are classifiable under Chapter Heading 2833, 2921, 3105 or 3808 or any other Chapter Heading of the Customs Tariff Act, 1962?

Answer: The products, viz. "Zn EDTA" and "Fe EDTA" manufactured and supplied by the applicant are classifiable under HSN 3824 99 90 of the First Schedule to the Customs Tariff Act, 1975.

Question 2: Whether the products, 'Zn EDTA' and 'Fe EDTA', being supplied by the applicant are covered under S. No. 182D of Schedule-I, S. No. 56 of Schedule-II, S. No. 40, 45 or 87 of Schedule-III, or any other S. No. of any of the Schedules of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017(as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended)?

Answer: The products, 'Zn EDTA' and 'Fe EDTA', being supplied by the applicant are covered under Sl. No. 56 of Schedule-II of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017(as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), attracting GST @ 12% (6% SGST +6% CGST).

Question 3: Whether the supply of the products 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertilizer Control Order, 1985, will have any impact on the applicability of particular S. No. of the Schedules of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and corresponding Notification No.1/2017-State Tax (Rate) dated 30.06.2017 (as amended) and Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), as determined under question No.(ii) above. If yes, what would be the correct Sl. No. and Schedule of aforesaid Notification No. in case of supply of products, 'Zn EDTA' and 'Fe EDTA' by the applicant to the recipient, who is not registered under the Fertilizer Control Act, 1985?

Answer: Answered in Negative, as discussed above.

**(SANJAY SAXENA)**  
**MEMBER**

**(MOHIT AGRAWAL)**  
**MEMBER**

Place: Ahmedabad

Date: 17.09.2020.