

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH
Goods and Service Tax
O/o THE COMMISSIONER, COMMERCIAL TAX,
MOTI BUNGALOW,
MAHATMA GANDHI MARG, INDORE (M.P.) - 452007
e-mail : aar@mptax.mp.gov.in Phone : 0731- 2437315 fax. no. : 0731-2536229

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017

Members Present

1. Manoj Kumar Choubey
Joint Commissioner
Office of the Commissioner of Commercial Tax, Indore Division-1
2. Shri Virendra Kumar Jain
Joint Commissioner
Office of the Commissioner CGST and Central Excise, Indore

GSTIN Number. If any/User-id	23AADCM7397N1ZU
Name and address of the applicant	M/S DHANRAJ ORGANICS PRIVATE LIMITED plant located at Plot No. 31 , Sector II , Pithampur (M.P.)
Point on which advance ruling sought	a. Classification of goods. b. applicability of a notification issued under the provisions of this Act;
Present on behalf of applicant	Mr. Rupal Parikh, Director of Company Mr. P.D. Nagar and Mr. Ashutosh Updhyay, Consultant
Case Number	19/2020
Order dated	order No...04.../2020 17/06/2021

PROCEEDINGS

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)

The present application has been filed u/s 97 of the Central Goods and Services Act, 2017 and MP Goods and services Act, 2017 (hereinafter also referred to CGST Act and SGST Act respectively) by M/s Dhanraj Organics P. Ltd, Pithampur (hereinafter referred to as the Applicant), registered under the Goods & Services Tax.



2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS AND SUBMISSION OF THE APPLICANT: --

(i) That Applicant is company registered under Company's Act 1956 and is engaged in manufacturing of Epoxidised Soyabean Oil in its plant located at Plot No. 31, Sector II, Pithampur (M.P.) having obtained GST Registration No. 23AAACD5735C1Z7 since 01.07.2017.

(ii) The relevant entries of the Rate Notification are reproduced here under :-

Sr. No.	Entry No.	Chapter Heading	Description of Goods	Schedule	Rate of Tax
1.	90	1518	Vegetables fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vaccum or in inert gas or otherwise	I	5%
2.	27	1518	Animal Fats and animal oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, Polymerised by heat and vaccum or in inert gas or otherwise chemically modified, excluding those of heading 1516;	II	12%
3	27.	1518	Inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter , not elsewhere specified or included.	II	12%

iii) Manufacturing Process of Epoxidised Soyabeen Oil (ESBO) :-

The product Epoxidised Soya bean Oil is a Chemically Modified Vegetable Oil. The Raw material Refined Soybean Oil is oxidized in a rector by the use of Oxidizing agent i.e. Hydrogen Peroxide in presence of a Catalyst. After such process of oxidation etc. Soya-vegetable oil is oxidized under vacuum. The manufacturing process is described as under :-

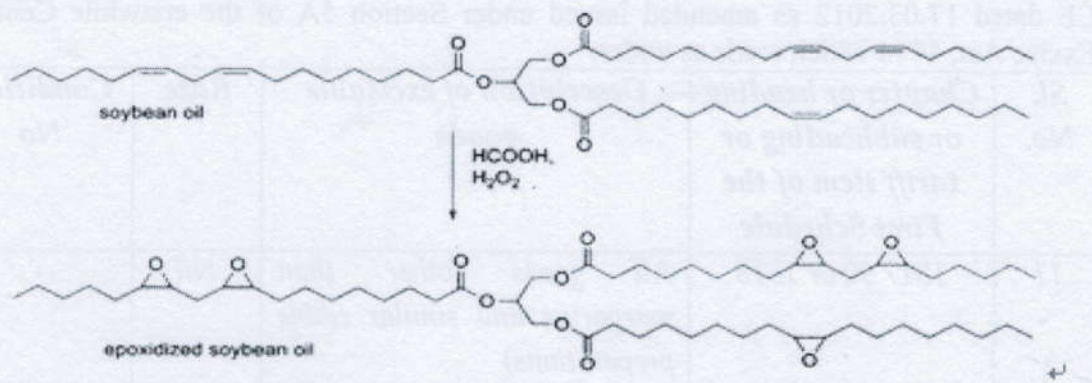
a) Major Raw Material Required :

Refined Soyabean Oil, Hydrogen Peroxide, Formic Acid (or Acetic Acid) .

b) Chemical Reaction of Epoxidised Soyabeen Oil (ESBO) :-



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The epoxidation process of soybean oil

All or most of the Double Bonds ($\text{C}=\text{C}$) in the Refined Soyabean Oil is replaced with the



Oxirane Bond ($\text{C} - \text{C}$) which is called the Oxirane Content % .

- c) The Refined Soyabean Oil is taken in a SS reactor and agitation is started by stirring the product. Then slowly Formic acid is added besides addition of Hydrogen Peroxide slowly. The Exothermic reaction takes place and the temperature of material starts to rise which is controlled in the range of 60-70 Deg. C by cooling the material by flow of water in the Cooling Coil & Jacket. The addition of Hydrogen Peroxide completes in 4 hours to 6 hours.

The Stirring is then continued for 10 – 12 hours after which first sample of the material is taken and analyzed for Oxirane content. Another sample is taken after few hours of Stirring so as to achieve the desired Oxirane % .

Water is then added to the reaction material to stop the reaction. Stirrer is done for 15 Minutes and then material is kept for settling for 2-3 hours. The aqueous layer is drained from the bottom. Then one more washing is done by repeating above steps and all chemical impurities and water is drained out.

Thereafter remaining material is heated by distillation under Vacuum (600-700 mm Hg) under agitation at 105- 110 Deg. C and all the remaining moisture is evaporated .

- d) Finished product Epoxidised Soyabean Oil is filtered through filter press and packed in plastic drums or carboys for dispatch. The entire process of **epoxidation of soya bean oil does not change its fundamental character**. Further, the physical appearance of the soya bean oil remains the same even after the chemical modification hence as per the applicant it falls under serial number 90 of schedule 1 of Notification number 1/2017 GST (Rate) attracting GST @2.5% and SGST @ 2.5%

- (iv). The Applicant submitted that under the pre-GST regime ESO was exempted from payment of central excise duty in terms of Sl. No. 11 to the Notification No. 12/2012-



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CE dated 17.03.2012 as amended issued under Section 5A of the erstwhile Central Excise Act, 1944 which reads as under:

Sl. No.	Chapter or heading or subheading or tariff item of the First Schedule	Description of excisable goods	Rate	Condition No
11	1517 90 or 1518	All goods (other than margarine and similar edible preparations)	Nil	-

Further, ESO was attracting levy of VAT/Sales Tax @4% or 5% as amended from time to time. Thus, it is clear that overall, the net incidence of indirect tax on ESO was 4% to 5% depending upon the rate prescribed in the schedules appended to State VAT Acts.

- (v) The applicant submits that the product "Epoxidised Oil" is primarily made up of Soya edible oils, which are vegetable fats/oils and not animal fats/oils. Therefore, the product in question should be classified under the more specific entry under Schedule-I. under Entry No. 90 of Schedule I of Notification No. 1/2017- Central Tax (Rate) dated 30.06.2017 bearing the description under the Chapter Heading 1518 and charging GST at the effective rate of 5%.
- (vi) As can be seen from the above, there are two categories of products which are covered under Heading 1518:
- One category covers vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516.
 - The second category covers and animal oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included.
- (vii). The Custom Tariff is generally based on the tariff classification adopted by World Customs Organization in its Harmonized Commodity Description of Coding System (for short referred to as HSN). Hence, wherever a Chapter of Custom Tariff is fully aligned with the corresponding Chapter of HSN, **the HSN explanatory notes explaining the scope of headings of that Chapter would have persuasive value in the determination of scope of headings of correspondence Chapter of Customs Tariff.** The aforesaid position has been laid down by the Hon'ble Supreme Court in the following decisions:
- Camlin Limited Vs. CCE – 2008 (230) ELT 193 (SC)
 - Coen Bharat Limited Vs. CCE – 2007 (217) ELT 165 (SC)
 - CCE Vs. Bakelite Hylam Limited – 1997 (91) ELT 13 (SC)
- (viii). The HSN Explanatory Notes with respect to the first category of products under Heading 15.18 states that:



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"This part covers animal or vegetable fats and oils and their fractions which have been subjected to processes which modify their chemical structure thereby improving their viscosity, drying power (i. e., the property of absorbing oxygen when exposed to the air and forming elastic films) or modifying their other properties, provided they retain their original fundamental structure and are not more specifically covered elsewhere. For example: -

- (i) The Boiled or oxidized oils are obtained by heating oils, generally with the addition of small quantities of oxidizing agents. These oils are used in the paint and varnish industry.
- (ii) Blown oils are partially oxidized and polymerized oils produced by blowing air through the oil, with application of heat. They are used for the manufacture of insulating varnishes, imitation leather and, when mixed with mineral oils, lubricating preparations (compound oils).
- (iii) Dehydrated castor oil is obtained by dehydrating castor oil in the presence of a catalyst. It is used in the preparation of paints or varnishes.
- (iv) Sulphurised oils are oils which have been treated with Sulphur or Sulphur chloride to cause polymerization in the molecules. Oil thus processed dries more rapidly and forms a film which absorbs less water than the usual film of dried oil, and has greater mechanical strength. Sulphurised oils are used for anti-rust paints and varnishes.
- (v) Oils polymerised by heat in vacuum or in inert gas are certain oils (particularly linseed oil and tung oil) which have been polymerised by simply heating, without oxidation, at 250 °C to 300 °C. Either in inert carbon dioxide gas or in a vacuum. This process produces thick oils commonly called "stand-oils" used for the manufacture of varnishes forming a particularly supple and waterproof film. Stand-oils from which the non-polymerized portion has been extracted (Teka oils) and mixtures of stand-oils are included in this heading.

(vi) The other modified oils in the heading include:

(a) Maleic oils obtained by treating, e.g., soya-bean oil with limited amounts of maleic anhydride at a temperature of 200 °C or more, in conjunction with sufficient polyhydric alcohol to esterify the extra acid groups. Maleic oils so obtained have good drying properties

(b) Drying oils (such as linseed oil) to which have been added in the cold small quantities of driers (e.g., lead borate, zinc naphthenate, cobalt resinate) to increase their drying properties. These oils are used in the place of boiled oils, in the preparation of varnishes or paints. They are very different from the prepared liquid driers of heading 32.11 (which are concentrated solutions of driers) and must not be confused with those products.

(c) Epoxidised oils obtained by treating, for example, soya-bean oil with per acetic acid preformed or for medin situ by reaction between hydrogen peroxide and acetic acid in the presence of a catalyst. They are used as plasticisers or stabilizers for, e.g., vinyl resins.

(d) Brominates oils used as an emulsion or suspension stabilizer for essential oils, for example, in the pharmaceutical industry.

(ix). The applicant submits that competing entry in Sl. No. 27 of Schedule II of the Notification 1/2017-Central Tax (Rate) dated 30.06.2017, chargeable to 12% GST. Chapter Heading 1518 of **Schedule II covers animal fats and animal oils** and their fractions, boiled,



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oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; and inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included; under any other heading. Therefore, the Applicant submits that since the Epoxidised soybeans Oil is specifically covered under SI. No. 90 of Schedule I. hence it cannot be classified vide S.No.27 of Schedule II.

(x). On a conjoint reading of Part A of the Explanatory Notes & its applicability to the facts of applicant's case, the following can be observed:

Sl. No.	Para 'A' of the Explanatory Notes	Facts of the Applicant's Product
1.	It covers vegetable fats and oils and their fractions	The Oil, viz. Epoxidised Soya Bean Oil is a vegetable oil.
2.	The products covered herein are subjected to processes which modify their chemical structure thereby improving their viscosity, drying power (i.e., the property of absorbing oxygen when exposed to the air and forming elastic films) or modifying their other properties, provided they retain their original fundamental structure.	The Oil is subjected to epoxidation process, which is a chemical treatment resulting in better oxirane oxygen contents and higher molecular weight. The Oil manufactured retains its fundamental structure as well as physical appearance even after the chemical treatment.
3.	It includes Epoxidised oils obtained by treating, for example, soya bean oil with peracetic acid pre-formed or formed in situ by reaction between hydrogen peroxide and acetic acid in the presence of a catalyst.	The product under consideration is poxidised oil itself, which is manufactured by a similar chemical treatment involving addition of hydrogen peroxide and formic acid/acetic acid into soya bean oil, which undergoes a reaction under strictly- controlled process conditions in the reactor.
4.	Such Epoxidised oils are used as plasticisers or stabilisers	The Oil is also used as a plasticizer.

We submit that **Category A – Part – II**, which covers:

'Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516'

Thus, in order to cover under Category A – Part – II, the resultant product should be vegetable oils and fats and their fractions, and the said product should be boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified.

ESO is obtained by reaction of epoxidation of "soya-bean oil" [which is a vegetable oil] with reaction of hydrogen peroxide and acetic acid into the catalyst. Thus, it is clear that ESO is a 'chemically modified' vegetable oil and shall more specifically be



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covered under Tariff Item No.15.18 of CTA. Thus, ESO will fall under Category A – Part – II and be leviable to GST @5% in terms of Sl. No. 90 to Schedule – I of rate notification.

(xi) Rules of Interpretation:

The applicant submitted that Rule 3(a) of the General Rules of Interpretation GIR") of the Import Tariff, states that the most specific description shall be preferred over headings providing a more general description. If a product can be classified under two or more different HSN codes, then the same should be classified under the HSN code which is more specific to the product and not under the code containing a general description.

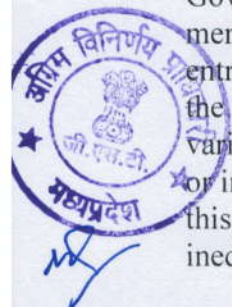
It is a settled principle of law that when a product can be classified under two or more entries, then, the more specific entry should be considered over the general entry and the product should be classified accordingly. Reliance is placed on the judgement passed by the Hon'ble Supreme Court of India in the case of "Commissioner of Central Excise, Delhi-IV v/s Sandan Vikas (I) Ltd", where the Hon'ble Apex Court held that specific entry will prevail over the general entry.

In this context, we submit that entry Sl. No 27 of Schedule II covers boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise **chemically modified animal oils and animal fats and its fractions**. The said entry No 27 includes within its purview inedible mixtures or **preparations of animal or vegetable fats** or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included. Therefore Epoxidised Soya Oil cannot be covered under entry no. 27 of Sch. II.

(xii) The applicant submitted that, since the entry contained in Schedule I is more specific and covers all kinds of vegetable oils, whether or not chemically modified and whether or not such vegetable oils are edible. Hence, the Epoxidised oil manufactured by the Applicant from the vegetable oils, merit classification under Schedule I of Chapter Heading 1518. In view of the specific entry under the GST provisions, the product " Epoxidised oil " should fall under Schedule-I and should be taxable at 5%. Moreover, the entry under Schedule-I does not specifically mention about the vegetable fats or oils being edible or inedible, which means that both edible and inedible oils are covered under this entry. If the intention of the Government was to cover either edible oils or inedible oils, the same would have been mentioned specifically in the description, as can be observed in the description of other entries like 1517, wherein edible fats or oils has been categorically excluded. In substance, the entry at Sl. No. 90 in Schedule I applies to vegetable oils which have been subjected to various processes. The relevant entry does not mention whether the product should be edible or inedible, in order to qualify classification therein. In the absence of any specific mention in this regard, it can be concluded that the intention of the entry is to cover both edible and inedible products.

(xiii) Adoption of more Beneficial Classification:

The Applicant submits that it is a settled principle of law that when a product qualifies classification under two or more different tariff heads, then, the classification which is more beneficial to the assessee should be adopted. Reliance is placed on the following judgements pronounced by the Supreme Court of India :



- a) Share Medical Care vs. Union of India [2007 (209) E.L.T. 321 (S.C.)].
- b) H.C.L Limited vs. Collector of Customs, New Delhi [2001 (130) E.L.T. 405 (S.C.)]
- c) Collector of Central Excise vs. Indian Petrochemicals [1997 (92) E.L.T. 13 (S.C.)]

Insertion of a specific and separate entry in the GST rate schedule in respect of vegetable fats and oils clearly brings out the intention of the legislature and the GST Council to tax vegetable fats and oils at alower rate of 5%, hence the view that the product, more appropriately, falls under tariff head 1518 mentioned under entry 90 of Schedule-I of the rate notification.

(xiv) Advance ruling on a similar product :

Kind attention is invited to Andhra Pradesh Authority for Advance Ruling in the case of M/s Agarwal Industries Pvt Ltd vide order dt.8/6/2018. In that case, the issue was whether Energy-G premium Oil manufactured by the assessee out of vegetable oils, merits classification under Schedule-I or Schedule-II. The AAR, observed that since the product under question is manufactured out of Vegetable fats/ oils and not from animal fats/ oils, therefore, the correct HSN Code of "Energy-G premium Oil" is HSN 1518 vide S. No. 90 of Schedule I of Notification dated 28-6-2017 and the applicable rate of tax is 5%.(Copy annexed).It is true that Advance Ruling does not have a binding force on other assessee, but the same has been relied upon to reiterate the fact that where the oil is manufactured out of vegetable oils whether chemically modified or not, the same merits classification under Schedule-I under tariff heading 1518.The Applicant submits that the product manufactured by the Applicant i.e. " Epoxidised oil " is also a similar kind of product. As the entry specifically uses the term "otherwise chemically modified which means that even if the mixture of edible oils is modified chemically, still the same would fall under Schedule-I.

- (xv) Under such circumstances, the Oil, which is in the nature of a 'vegetable oil' qualifying the description specified in the Entry, will classify under Chapter Heading 1518 of the CTA, 1975 as supported by the following judicial precedents(Copies Annexed):-

- (i). CCE, Surat vs. Consumer Plastics Pvt. Ltd. 2006 (194) E.L.T. 214 (Tri. - Mumbai);
- (ii). Adjudication Order No. 15/COLLR/CEX/ADJ/94 dated 29.03.1994 passed in the case of M/s. National Peroxide Ltd., Dewas by the Ld. Collector of Central Excise;(Para 13 to 18)
- (iii). M/s. IVP Ltd. by the Ld. Assistant Collector of Central Excise in Case No. F/110/1990, Order dated 27.08.1992.

In support of above, we are enclosing herewith Two Laboratory reports wherein it has been certified that "Epoxidised oil" is chemically modified vegetable oil.

- 3A. The Applicant have submitted Additional submission dated 22.02.2021, which reproduced as under :-

"1. We empathetically submit that Epoxidised Soyabean oil is manufactured by us from 100 % Soyabean oil i.e. vegetable oil.



There is no mixture of any other oil. It is Edible in nature which is clear from the test report of Spectro Analytical Labs Ltd. New Delhi dated 27.07.18 . A copy of the complete report is enclosed herewith.

Thus it is clear that Epoxidised Soyabean oil manufactured by us is edible in nature . Therefore Customs Dept. have also assessed Epoxidised Soyabean Oil like us charging 5 % IGST . The details of Bill of Entry No. 9088035 dt. 07.10.2020 is enclosed herewith .

Even all other manufacturers all over India including manufacturers having factory in Dewas in same Commissionerate are paying 5 % IGST on the same product (copy attached) .

2. Without prejudice to the above we would like to submit that the Entry 90 in Notification No. 1/2017-Central Tax (Rate) dated 28.07.2017 nowhere refers / mention about the nature of the final product i.e. whether edible or inedible Oil .

Therefore its end use is irrelevant as per Para 4 of the order passed by CESTAT in case of Eimco Elicon (India)Ltd reported in 2009(237) ELT 293 (Tri-Ahmd) which is read as under:-

4.. We find that in case of Textile Bearing (KCI) Private Limited reported in 2001 (129) ELT 496 and also in Hydraulic Engineers case reported in 2001 (130) ELT 366 Chapter Note 2(a) was applied and in Textile Bearing case the Tribunal had quoted the observation of Honorable Supreme Court **"when there is no reference to use or adaptation of the article ,the basis of the end use for the classification under the tariff entry is absolutely irrelevant"** in view of decision cited in and chapter note, the fact that motor manufactured by appellant has been modified to be suitable for machinery manufactured by them is not relevant and therefore, it has to be classified under general heading which covers other engine and motor. Going to the second item namely hydraulic cylinder the tariff heading 8421 cover only engine and motor .No evidence has been put forth to show which hydraulic cylinder manufactured by them can be called an engine . Therefore as already discussed above the Custom Tariff mention cylinders , whereas Excise Tariff cover only engines therefore hydraulic cylinder is clearly under the heading 8431 of Central Excise tariff and need no interference The Appeal is filed by appellant is decided in above manner.

3. That the Authority of Advance Rulings , Andhra Pradesh in case of M/s Agrawal Industries Private Limited (copy enclosed) vide Para 1 ,3 , 4 & 5 have held as follows :-

1. M/s Agrawal Industries P. Ltd. , Plot No. 5A/1 , Vakalapudi , IDA , Kakinada533007 (hereinafter also referred as applicant) having GSTIN 37AACCA0094R1ZA are engaged in manufacturing of ingredients of poultry feed, particularly involved in the manufacturing of substitute of Rice bran oil , which is used in the preparation of poultry feed . They named their product as " Energy -G premium Oil " and stated that their product is inedible or not fit for human consumption and purely for manufacturing of poultry feed .

3. A personal hearing was fixed on 21st May 2018 which was attended by Shri M. Rama Chandra Murthy, authorized representative on behalf of the



applicant. The applicant is of the view that the said "Energy - G premium Oil" falls under the HSN Code : 1518 of Schedule I as per the Notification No. 01/2017- Central Tax(Rate), dated: 28 th July 2017 (attracts 2.5%). The HSN Code: 1518, in the said notification reads as . . .

'Vegetable fats and oils their fraction, boiled, oxidized ,dehydrated , sulphurised , blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516".

4. We have gone through the application filed by the applicant and the written submission explaining the manufacturing process and the raw material involved in preparation of the said "Energy - G premium Oil" . it is submitted before us that the product under question is manufactured out of vegetable fats / oils and not from animal fats / oils . That being so the classification of product is HSN 1518 and shall be subject to 5% GST as per Schedule I of Notification 1/2017-C.T(Rate) dated 28.06.2017 and corresponding SGST Notification .

5. Accordingly, we pass the following ruling :

Ruling:

Correct HSN Code of "Energy - G Premium Oil" is HSN 1518 vide S.No 90 of Schedule I of Notification 1/2017-CT (Rate) dated 28.06.2017 and hence the rate of tax attracts 5% .

4. From the above it is clear that if a product is manufactured from Edible Vegetable oil like Rice bran oil or Soybean Oil and final product is edible or non edible , it will fall under entry number 90 of Schedule-I of GST rate Notification No. 1/2017-Central Tax (Rate) dated 28.07.2017 and will attract 5% IGST .
5. The reason being that if a product is manufactured from Edible Vegetable oil and sulphurised or Polymerized, it may be inedible but will still attract 5% IGST only.
6. That In the present case soya bean/vegetable oil is the raw material. This is process by oxidation. Hence soybean vegetable oil is oxidized by heat in vacuum and therefore specifically fall under serial number 1 of inter number 90 of Schedule-I of GST rate Notification No. 1/2017-Central Tax (Rate) dated 28.07.2017 and will attract 5% IGST.
7. From the above it is clear that for epoxidised Soya oil which is edible in nature and nothing is mixed in that oil and is manufactured by processing of oxidation will fall entry number 90 of Schedule-I of GST rate Notification No. 1/2017-Central Tax (Rate) dated 28.07.2017 and will attract 5% IGST.
8. It is settled law that Specific entry will prevail over Residual entry. Entry number 90 being specific for epoxidised soya oil, nothing is mixed, it is not a mixture. It is edible in nature hence epoxidised soybean oil will specifically fall under enter number 90 of Schedule-I of GST rate Notification No. 1/2017-Central Tax (Rate) dated 28:07.2017 and will attract 5% IGST.



9. *It is also a settled law that no word can be added in the entry prescribed in the notification. Thus for classifying the product, End Use condition cannot be added.*
10. *We would like again to be heard in person before making a decision on our AAR application."*

4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

The following questions have been posted before the Authority in the application:-

Whether Epoxidised Soya bean Oil can be classified under tariff item 1518 of Schedule-I (taxable at 5%) or Schedule-II (taxable at 12%) of Notification No. 1/2017-Central Tax (Rate) dated June 28, 2017, as amended from time to time?

5. CONCERNED OFFICER'S VIEW POINT:

Asstt. Commissioner(Tech) CGST & Centra Excise Ujjain vide his letter C.No.IV(16)19-95/GST/Tech/Misc-Corres.-II/2018-19/ dated 10.02.2021 forwarded comments received from the Division Pithampur vide letter C.No.IV(16)30-01/17-18/Pith/154 dated 09.02.2021 submitted that the Epoxidised Soyabean Oil is covered under entry no.27 of Schedule -II of Notification 01/2017 dated 28.06.2017 attracting GST @12% as the description "inedible mixture or preparation of animal or vegetable fats or oils" fits for the said product. Further, as the additional submission made by the applicant vide letter dated 22.02.2021, again a letter dated 26.02.2021 has been written to the Asstt. Commissioner, Division-I, Pithampur and copy forwarded to Joint Commissioner (Tech) Hqrs Ujjain and also mailed to AC Pithampur and Hqrs Ujjain on 26.02.2021 and reminder mail dated 01.03.2021 for submission of his views on the additional submission made by the applicant but the reply is not received.

6. RECORD OF PERSONAL HEARING:

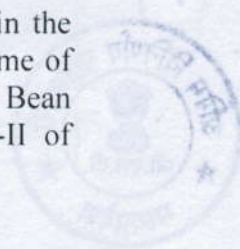
Shree Rupal Parikh, Director of applicant, Shri P.D.Nagar C.A. and Shri Ashutosh Updhyay, Advocate/Consultant appeared for personal hearing and reiterated the submissions already made in the application. They Further submitted written submission 15.01.2021 in which they submitted the Decision of AAR.

DISCUSSIONS AND FINDINGS:

7.1. We have carefully considered the submissions made by the applicant in the application, additional submission dated 21.02.2021 and submission made at the time of personal hearing. The main issue is to decide the classification of Epoxidised Soya Bean Oil and whether the said goods is covered under the Schedule-I or Schedule-II of Notification No.01/2017-CT dated 28.06.2017.



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7.2. The applicant submitted that the epoxidised soyabean oil is a chemically modified vegetable oils and the process of manufacture is refined soyabean oil is oxidized in a reactor by the use of Oxidizing agent i.e. Hydrogen peroxide in presence of a Catalyst. The applicant further submitted that the entire process of epoxidation of soyabean oil does not change its fundamental character. On going through the process submitted by the Applicant, we found that the product Epoxidised soyabean oil is chemically modified (epoxidised) oil. The chemical modification is such that its double bond. The heading of chapter heading 1518 is reproduced below (As per Customs Tariff as adopted by GST) :-
 “1518 :- Animal or vegetable fats and Oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polmerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516: inedible mixtures or preparation of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included.”

As per the heading given above, we find that the Epoxidised Soyabean Oil is covers under the above chapter heading 1518.

7.3 Further, in case of Commissisoner of Central Excise, Surat-II Vs. Consumer Plastic Pvt. Ltd. 2006(194)E.L.T.214(Tri.Mumbai), the Tribunal held that the Epoxidised vegetable Oil used as plasticisers or stabilisers in plastic industry, classifiable under Chapter 15 of Central Excise Tariff and not under Heading 38.12 ibid.

Hence, we find that there is no doubt for classification of Eposidised soyabean oil under chapter heading No.1518.

7.4 For find out that whether the product Epoxidised soyabean oil is covered under the Schedule-I or Schedule -II of Notification No.01/2017 -CT dated 28.06.2017, the relevant entries of the Rate Notification are reproduced here under :-

Sr. No.	Entry No.	Chapter Heading	Description of Goods	Schedule	Rate of Tax
1.	90	1518	Vegetables fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516.	I	5%
2.	27	1518	Animal Fats and animal oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, Polymerised by heat and vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; Inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of	II	12%



			this chapter, not elsewhere specified or included		
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- 7.5 We observe that the product Epoxidised Soya bean Oil is mainly manufactured from the raw material refined soyabean Oil which is a vegetable Oil and the said product obtained by treating vegetable oil by reaction in the presence of catalyst and in other words it can be said that the product is chemically modified vegetable Oil. On going through the description of goods mentioned above in Entry No.90 i.e. 'Vegetable fats and Oils oxidized by heat in vacuum or inert gas or otherwise chemically modified' which covered the Epoxidised Soya Oil. Hence, the said Epoxidised soyabean oil obtained by oxidized by heat in vacuum or chemically modified oil is rightly fits/covered under the said entry No.90.
- 7.6 We observe that the Applicant submitted a copy of test report of Spectro Analytical Lab dated 27.07.2018 in which confirm that the sample of Epoxidised Soyabean Oil meets the edible vegetable oil parameters.
- 7.7 The Asstt. Commissioner Division-I, Pithampur submitted that the Epoxidised Soyabean Oil is covered under entry no.27 of Schedule -II of Notification 01/2017 dated 28.06.2017 attracting GST @12% as the description "inedible mixture or preparation of animal or vegetable fats or oils" fits for the said product. As the additional submission made by the Applicant on 22.02.2021, further reply/views called from the Division as well as from Hqrs. Ujjain vide letter dated 26.02.2021 but even after reminder, the reply is not received. We observe that the Division vide earlier reply agreed with classification of goods under tariff item 1518 but want to covers the said goods under entry No.27 of Schedule-II without any supporting. Further no justification has been given why the said product is not covered under Entry No.90 of Schedule-I. We observe that in the Entry No.27 of Schedule -II of the Notification No.01/2017-Central Tax(Rate) dated 26.06.2021 only those products are covered which are not elsewhere specified or included whereas in this case the Epoxidised Soyabean Oil is rightly specified/included under entry No.90 of schedule-I, hence no relevance of entry no.27 of Schedule-II. The applicant is manufacturing and supplying the said goods epoxidised Soya Oil classifying under heading no.1518 and paying tax @5% under entry No.90 schedule-I and regularly filed return to the department. Further, as the said product specifically covered under the entry no.90 of Schedule I as mentioned above, the question of entry no.27 of schedule-II does not arise.
- 7.8 On the similar issue, in case of M/s Agrawal Industries Pvt. Ltd., the Andhra Pradesh Authority for Advance Ruling vide order dt.8/6/2018 observed that since the product under question is manufactured out of Vegetable fats/ oils and not from animal fats/ oils, therefore, the correct HSN Code of "Energy-G premium Oil" is HSN 1518 vide S. No. 90 of Schedule I of Notification dated 28-6-2017 and the applicable rate of tax is 5%. The Deputy Commissioner, Registrar, AAR, Andhra Pradesh vide letter No.AAR/09/21 dated 27.04.2021 informed that no appeal has been filed against the abovesaid order of AAR. We find that in this case also the Epoxidised Soyabean Oil is manufactured from Soyabean refined Oil i.e. vegetable oil not from the animal fats/Oils. Hence the above order is applicable in this case also.



7.9 The Applicant have submitted that the Epoxidised Soya Oil in India is being import through customs and supplied by other manufacturer i.e M/s Barlocher India Additive Ltd. In India under chapter heading 1518 and paying tax @5%. As per the invoice No. ST9210290952 dated 16.01.2021 issued by M/s Barlocher India Additive P. Ltd ,submitted by the Applicant, we observe that the other units is also classified the said goods under chapter 1518 and paying tax @5%

7.10 In view of above, we hold that the product epoxidized Soya Oil is a chemically modified soyabean oil and falls under chapter heading no.1518 and specifically covered under entry no.90 of Schedule-I of Notification No.01/2017 dated 28.06.2017.

8. RULING:-

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

8.1 The Epoxidised Soya bean Oil is rightly classifiable under tariff item 1518 and GST @5% is leviable as the said product is specifically covered under the entry no.90 of Schedule-I of Notification No. 1/2017-Central Tax (Rate) dated June 28, 2017, as amended from time to time.

8.2 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

SK
VIRENDRA KUMAR JAIN
(MEMBER)

SP
MANOJ KUMAR CHOUBEY
(MEMBER)

Copy to:- 20/2020/A.A.R/R-28/09

INDORE dated 17/06/2021

1. Applicant
2. The Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore / *UJJAIN*
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

सत्यप्रतिलिपि

Manoj Choubey

