

**TAMILNADU ADVANCE RULING AUTHORITY**  
**PAPJM Buildings, IstFloor, No.1, Greams Road, Chennai-600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE  
GOODS AND SERVICES TAX ACT 2017.**

**Members present are:**

1. Ms. Manasa Gangotri Kata, IRS, Joint Commissioner/Member,  
Office of the Commissioner of GST & Central Excise, Chennai.  
And
- 2.Thiru KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A.,  
Joint Commissioner (ST) / Member  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

**ORDER No.48/ARA/2019 Dated: 17. 10.2019**

GSTIN Number, if any / User id		33AADCK8591Q1ZR
Legal Name of Applicant		M/s. Kalis Sparkling Water Private Ltd.
Trade Name of the Applicant		M/s. Kalis Sparkling Water Private Ltd.,
Registered Address / Address provided while obtaining user id		No. E72-E79 AND E88-E95, SIPCOT INDUSTRIAL COMPLEX, Pallapatti Post, Nilakottai Taluk, Dindugal 624 201.
Details of Application		GST ARA – 001 Application SI.No.26 dated 19.07.2019.
Concerned Officer		State :The Assistant Commissioner (ST), Nilakottai Assessment Circle , No.1-4-38, B6 & B7, Madurai Road, Periyar Colony, Nilakottai-624 208. Centre : Madurai Commissionarate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Manufacturing
B	Description (in brief)	The applicant proposes to manufacture beverages with fruit juices and without milk and seeks the classification of the product and the applicable rate of GST.
Issue/s on which advance ruling required		1.Classification of the goods 2. Determination of the rate of tax

Question(s) on which advance ruling is required	<ol style="list-style-type: none"> <li>1. Whether their product <b>K Juice Grape</b> fall under category of fruit beverages or fruit based drinks?</li> <li>2. What is the rate of tax and HSN code for their product name?</li> <li>3. Is there any persevered percentage of fruit or pulp in the beverages to call them as carbonated fruit beverages or drinks under the GST Act?</li> </ol>
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**Note: Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub-Section (1) of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.**

**At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.**

M/s. Kalis Sparkling Water Private Ltd., No. E72-E79 AND E88-E95, SIPCOT INDUSTRIAL COMPLEX (herein after referred as 'Applicant') is registered under the GST Act 2017 vide GSTIN No. 33AADCK8591Q1ZR. The Applicant has sought Advance Ruling on the following questions:

1. What is the rate of tax and HSN Code for fruit beverages or drinks with HSN Code?
2. The definition under the FSSAI Act in section 2.3.3.A can be taken as an aid to classify the product? If so kindly clarify.
3. Is there any persevered percentage of fruit or pulp in the beverages to call them as carbonated fruit beverages or drinks under the GST Act?

The applicant submitted a copy of challan evidencing payment of application fees of Rs.5, 000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2. The applicant stated that they are going to manufacture beverages with fruit juices and without milk. They understand from the industry that fruit pulp or fruit juice based drinks fall under HSN code 22029020 liable to be taxed at 12%. They



state that fruit juice based drinks should be called as "Carbonated beverage with fruit juice" as per Para 3A definition in FSSAI Act.

3.1 The applicant was extended an opportunity to be heard in person on 28.08.2019 and was heard. They gave a written submission stating that their product is carbonated beverages with fruit juice and furnished a test report on the content. They stated that their product has fruit juice and been carbonated for preservation sake. They state the grape juice content will vary from 10-15%. They also referred to the Supreme Court case in APPY Fizz of Kerala VAT. They stated that the product is under development and the brand name has been finalized. They undertook to submit a detailed manufacturing process with quantities of each raw material in 2 weeks. The Centre jurisdictional officer stated that the comments have been submitted in writing. As the questions are generic, the applicant will repose the question specific to their products and the Central Tax Officer will give comments on the fresh submissions made.

3.2 In the written submission, the applicant stated that they are Kalimark, a 103 year old beverage manufacturing company. They are engaged in manufacture of new products (carbonated fruit drink/fruit juice without adding milk) and the sample has been taken which will be sold in the market name as **K Juice Grape**. The method of preparation of the said carbonated beverages with fruit juice is stated as follows:

Processing RO Water ---> Preparation of Sugar Syrup Solution ----->  
Thermal Process -----> Add Concentrate (Recipe) ----->Add Thermally  
Processed Fruit Juice Concentrate ----> Blending ----> Carbonization ---->  
Filling ----> Bottling -----> Capping-----> Labelling -----> Shrink Wrapping.

And the ingredients of the manufactured carbonated fruit juice are as follows:

S.No	Ingredients Name	UOM	Percentage %
1.	Sugar Quantity	gms	17%
2.	Bovonto Concentrate	ml	0.63%
3.	Sodium Benzoate	gms	0.01%
4.	Citric Acid	gms	0.09%
5.	Fruit Juice	ml	10%
6.	Water	ml	51.19%

3.3 The applicant has further stated that carbonated fruit beverages are specifically explained in Chapter 2.3.30 and 2.3.3A of the FSSAI Act as under:

“2.3.30 Carbonated fruit beverages or fruit drinks:

1. Carbonated fruit beverages or fruit drink means any beverage or drink which is purported to be prepared from fruit juice and water or carbonated water and containing sugar, dextrose, invert sugar or liquid glucose either singly or in combination. It may contain peel oil and fruit essences. It may also contain any other ingredients appropriate to the products.
2. The product may contain food additives permitted in these regulations including appendix A. The product shall conform to the microbiological requirements given in Appendix B. It shall meet the following requirements:
  - (i) Total soluble solids (m/m) – Not less than 10.0 percent
  - (ii) Fruit content (m/m)
    - a. Lime or Lemon juice – Not less than 5.0%
    - b. Other fruits – Not less than 10.0. Percent
3. The product shall have the colour, taste & flavor characteristic of the product & shall be free from extraneous matter.

As per FSSAI Clause 3A in case the quantity of fruit juice is below 10.00 percent, but not less than 5.0 percent. (2.5 percent, in case of lime or lemon), the product shall be called ‘carbonated beverage with fruit juice and in such cases the requirement of TSS (Total soluble solids) shall not apply and the quantity of fruit juice shall be declared on the label. The applicant has contended that it could be evidenced from the above said definition both categories of carbonated beverages of fruit juice or fruit drink are treated as one and the same having the same meaning.

3.4 The applicant has also stated that as per the GST Act and its schedule, the rate of tax on the fruit pulp or fruit juice based drink alone classified under the HSN Code 2202 liable to be taxed at 12%.; That they had requested for expert opinion for classification under the FSSAI Act and request to clarify the classification of above these products.; the consultant also classified that the carbonated beverage with fruit juice and fruit based drink are grouped with some category, but according to the content of the total soluble solids (m/m as defined in chapter 2.2.30 of the FSSAI Act). The applicant has furnished the opinion of the consultant.



3.5 They have further stated that according to the norms of the FSSAI Act, their manufactured product carbonated beverage with fruit or fruit drink named **K Juice Grape** having the fruit content of 10% i.e. say approximately ranging from 11 to 14%, are carbonated beverages with fruit juice or fruit juice drinks and such drinks having the fruit content no less than 10%, but not less than 5.0 percent in the case of lemon, shall fall under the HSN 2202 liable to be taxed at 12%.

3.6 The applicant has further relied on the judgment of the Hon'ble Supreme Court of India in the matter of M/s. Parle Agro Private Limited Vs Commissioner of Commercial Taxes, Trivandrum reported in 106 VST page 1. They have contended that the facts and circumstances and the legal interpretation of the entry are exactly applicable in their issue. In the said judgment the main issue involves whether their product "APPY FIZZ" would fall under fruit based drink or aerated branded soft drinks. The Hon'ble Judges have thoroughly interpreted the entry and finally held that it is only a fruit based drink falling under HSN Code 2202 90. The Hon'ble Supreme Court framed 9 issues and out of which the 7<sup>th</sup> issue framed by them is most relevant.

3.7 The applicant has stated that the manufactured new products sample were sent to Parikshan Lab (NABL Accredited), as per the lab/test report issued by Parikshan Lab, the ingredients in the product satisfies the term of Carbonated Fruit Juice. The test report states that the fruit content is 10% and the ingredients are water, sugar, grape juice concentrate and acidity regulators, stabilizer, preservatives, sweeteners, natural colour and synthetic food colours and Contains Fruit.

3.8 They also submitted a proposed label for the beverage. The label is for 'Bovonto's K Juice Grape' 'Grape Flavoured Drink'. The product is called as 'Carbonated Fruit Beverage' with ingredients Carbonated water, sugar, grape juice, acidity regulator, preservative, permitted colour and added flavor.

4.1 The applicant vide letter dated 11.09.2019 received on 13.09.2019, furnished additional submissions detailing the manufacturing process with quantities of each raw materials used in the production and modified the queries in the Advance Ruling Application by mentioning/inserting the name of their

**Product:** Grape Based Carbonated Fruit Drink (200ml)

**Production Capacity:** 10,000 liters

**Processing Flow Chart**

Prepare the sugar solution (10%) at 75-80 deg Celsius in blending tank  
(Minimum capacity: 1000 ltrs)



Filter the sugar solution using to remove the unwanted impurities



Transfer the sugar solution to the silo / tank and Mix pasteurized / aseptically  
packed grape juice (13%)



Blend it at 80 deg Celsius (15-20 sec) – Mild Thermal Treatment (Loss of water – 2  
to 3%)



Cool it to Room temperature.



Weigh and add the additives (Acidity Regulator INS 330 & 331, Preservative INS  
211) as per the formulation.



Add Coloring agent & Flavoring agent.



Mix it well (Circulation for 3 hrs.)



Carbonation at 20 deg Celsius (Volume of Co<sub>2</sub> – 3.1 & % of co<sub>2</sub> – 0.61)



Filling at 2-4 deg Celsius, Capping & Shrink wrapping

**Grape based Carbonated Fruit Drink**

Sl.No.	Ingredients	UOM	%	10000 ltr
1	RO Water	KG	75.88	7588
2	Grape Juice	KG	13	1300
3	Sugar	KG	10	1000
4	Carbon-DI-oxide (Co <sub>2</sub> )	KG	0.60	60
5	Colouring agent	KG	0.2	20
6	Flavouring Agent	KG	0.2	20



7	Citric acid	KG	0.08	8
8	Tri Sodium Citrate	KG	0.03	3
9	Sodium benzoate	KG	0.012	1.2

4.2 They have further stated that at the time of filing application on 16.07.2019 they had not named their product for marketing. After filing the application they have taken sample of the product which was tested and lab report furnished. Further the applicant had also obtained expert opinion from a lead foods scientist, National Advisory, FHRAI, and Chennai. After satisfying lab report, test report and expert opinion, the applicant had named their Product "**K juice Grape** " which will be marketed in future. Since the applicant fixed and named their product for marketing, the applicant modified the queries/prayer of the Advance Ruling Application already filed.

4.3 They submitted copy of their license issued by FSSAI for manufacture of Carbonated Fruit Beverages and Thermally Processed fruit Juices. A copy of reply received from FSSAI on their query adding fruit juices in carbonated beverages to which the reply was that fruit juices can be infused in carbonated water and the product should comply with Standard 2.23.30 of FSS(Food Product Standards and Food Additives) Regulations, 2011.

5. We have carefully examined the oral and written submissions of the Applicant. We find that the modified questions raised seeking ruling are:

- 1) Whether their product **K Juice Grape** fall under category of fruit beverages or fruit based drinks?
- 2) What is the rate of tax and HSN code for their product name?
- 3) Is there any persevered percentage of fruit or pulp in the beverages to call them as carbonated fruit beverages or drinks under the GST Act?

Section 97(2) of the CGST Act / Tamil Nadu GST Act (TNGST) gives the scope of Advance Ruling Authority, i.e., the question on which the Advance Ruling can be sought. For ease of reference, the section is reproduced as under:

*97 (2) the question on which the advance ruling is sought under this Act, shall be in respect of,—*

- (B) Applicability of a notification issued under the provisions of this Act;*
- (c) Determination of time and value of supply of goods or services or both;*
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) Determination of the liability to pay tax on any goods or services or both;*
- (f) Whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

The Act limits the Advance Ruling Authority to decide the issues earmarked for it under Section 97(2) and no other issue can be decided by the Advance Ruling Authority. Of the above questions on which ruling is sought by the applicant, the question at (1) and (3) do not fall under any of the category specified under Section 97(2) of the Act and therefore are not within the ambit of this authority. The ruling is offered on the second Question as the same is within the ambit of this authority.

6.1 From the submissions made it is seen that the applicant seeks the classification of the product, "K juice Grape", intended to be marketed in future by them. The clarification sought is whether the said product fall under the category of fruit beverages or fruit based drinks. The label of the product have the description "Carbonated Fruit Beverage". As per the label, the ingredients are Carbonated water, sugar, grape juice, acidity regulator, etc. It also has permitted flavour and colour. From the test report submitted by the applicant the sample is described as 'Beverages' with 'Fruit Content -10%'. The inputs used for the product is RO water(75.88%), Grape juice (13%), sugar (10%)and colouring, flavouring agents. The manufacturing process involves Thermal treatment of blended juice, sugar and water solution, which is cooled, added with additives and preservative as per formulation & permitted coloring agent, flavoring agent, and then carbonated at 20 deg Celsius.

6.2 As per the **Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 DT 01.08.2011** as amended, Para 2.3.6 states,

#### **2.3.6: Thermally Processed Fruits Juices**



1. *Thermally Processed Fruits Juices (Canned, Bottled, Flexible and/or Aseptically Packed)* means unfermented but fermentable product, pulpy, turbid or clear, intended for direct consumption obtained by a mechanical process from sound, ripe fruit or the flesh thereof and processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage. The juice may have been concentrated and later reconstituted with water suitable for the purpose of maintaining the essential composition and quality factors of the juice. It may contain salt. One or more of the nutritive sweeteners may be added in amounts not exceeding 50 g/kg but not exceeding 200g/kg in very acidic fruits except in case of Apple Juice, Orange Juice (reconstituted from concentrate), Grape Juice, Pineapple Juice (reconstituted from concentrate).

It is seen from the above that as per the classification of FSSAI, Fruit juices are unfermented but fermentable product obtained by a mechanical process from sound, ripe fruit or the flesh thereof and processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage and are intended for direct consumption. In the instant case, the product is made by adding fruit juices to large quantities of water along with other preservatives which then goes through a carbonation process. The juices are not meant for direct consumption here but are just one ingredient of the drinks.

Para 2.3.30 of the above Regulations states

**2.3.30 Carbonated Fruit Beverages or Fruit Drinks:**

1. *Carbonated Fruit Beverages or Fruit Drink* means any beverage or drink which is Purported to be prepared from fruit juice and water or carbonated water and containing sugar, dextrose, invert sugar or liquid glucose either singly or in combination. It may contain peel oil and fruit essences. It may also contain any other ingredients appropriate to the products.

.....

3A. in case the quantity of fruit juice is below 10.0 per cent. But not less than 5.0 per Cent. (2.5 per cent. In case of lime or lemon), the product shall be called 'carbonated Beverages with fruit juice' and in such cases the requirement of TSS (Total Soluble Solids) shall not apply and the quantity of fruit juice shall be declared on the label.

Further, as per **Appendix A** to these Regulations where there is a food category system, it is seen that fruit juices are classified under 14.1.2.1 as

**14.1.2.1 Fruit iuices**

*Fruit juice is the unfermented but fermentable liquid obtained from the edible part of sound, appropriately mature and fresh fruit or of fruit maintained in sound condition by suitable means. The juice is prepared by suitable processes, which maintain the essential physical, chemical, organoleptic and nutritional characteristics of the juices of the fruit from which it comes. The juice may be cloudy or clear, and may have restored (to the normal level attained in the same kind of fruit) aromatic substances and volatile flavour components, all of which must be obtained by suitable physical means, and all of which must have been recovered from the same kind of fruit. Pulp and cells obtained by suitable physical means from the same kind of fruit may be added. A single juice is obtained from one kind of fruit. A mixed juice is obtained by blending two or more juices or juices and purees, from different kinds of fruit. Fruit juice may be obtained, e.g. by directly expressing the juice by mechanical extraction processes, by reconstituting concentrated fruit juice (food category 14.1.2.3) with water, or in limited situations by water extraction of the whole fruit. Examples include orange juice, apple juice, black currant juice, lemon juice, and orange mango juice and coconut water.*

**And**

#### **14.1.4.1 Carbonated water-based flavoured drinks**

*Includes water-based flavoured drinks with added carbon dioxide with nutritive, non-nutritive and/or intense sweeteners and other permitted food additives. Includes gaseous (water-based drinks with added carbon dioxide, sweetener, and flavour), and sodas such as colas, pepper-types, root beer, lemon-lime, and citrus types, both diet/light and regular types. These beverages may be clear, cloudy, or may contain particulate matter (e.g. fruit pieces). Includes so-called "energy" drinks that are carbonated and contain high levels of nutrients and other ingredients.*

Therefore, it is seen from above that fruit juices and carbonated beverages with fruit drinks are distinct products in the FSSAI regulations and the product of the applicant is not thermally processed fruit juice but covered under Para 2.3.30 of the regulations and Category 14.1.4.1 in the food category system in Appendix A to these regulations.

6.3 In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, 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 and the rules for the interpretation



of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

6.4 The relevant entries of the Customs Tariff is given under for ease of reference:

**Chapter 2009 of Customs Tariff** covers *fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.*

**Chapter Note 6 of Chapter 20** states "*For the purposes of heading 2009, the expression "juices, unfermented and not containing added spirit" means juices of an alcoholic strength by volume (see Note 2 to Chapter 22) not exceeding 0.5% volume.*"

**HSN Explanatory Notes to Chapter 2009** states

The fruit and vegetable juices of this heading are generally obtained by pressing fresh, healthy and ripe fruit or vegetables. This may be done (as in the case of citrus fruits) by means of mechanical "extractors" operating on the same principle as the household lemon-squeezer, or by pressing which may or may not be preceded either by crushing or grinding (for apples in particular) or by treatment with cold or hot water or with steam (e.g., tomatoes, blackcurrants and certain vegetables such as carrots and celery).

The liquids thus obtained are then generally submitted to the following processes :

- (a) **Clarification**, to separate the juice from most of the solids, by means of clarifying substances (gelatin, albumin, infusorial earth, etc.) or of enzymes, or by centrifuging.
- (b) **Filtration**, often by means of filter plates faced with kieselguhr, asbestos, cellulose, etc.
- (c) **De-aeration**, to eliminate oxygen which would spoil the colour and flavour.
- (d) **Homogenisation**, in the case of certain juices obtained from very fleshy fruits (tomatoes, peaches, etc.).
- (e) **Sterilisation**, to prevent fermentation. Various methods may be employed, for example, pasteurisation (prolonged or "flash"), electric sterilisation in machines fitted with electrodes, sterilisation by filtration, preservation under pressure using carbon dioxide, refrigeration, chemical sterilisation (e.g., by means of sulphur dioxide, sodium benzoate), treatment with ultra-violet rays or ion exchangers.

As a result of these various treatments the fruit or vegetable juices may consist of clear, unfermented liquids. Certain juices, however (in particular those obtained from pulpy fruits such as apricots, peaches and tomatoes) still contain part of the pulp in finely divided form, either in suspension or as a deposit.

**Provided** they retain their original character, the fruit or vegetable juices of this heading may contain substances of the kinds listed below, whether these result from the manufacturing process or have been added separately :

- (1) Sugar.
- (2) Other sweetening agents, natural or synthetic, provided that the quantity added does not exceed that necessary for normal sweetening purposes and that the juices otherwise qualify for this heading, in particular as regards the balance of the different constituents (see Item (4) below).
- (3) Products added to preserve the juice or to prevent fermentation (e.g., sulphur dioxide, carbon dioxide, enzymes).

- (4) Standardising agents (e.g., citric acid, tartaric acid) and products added to restore constituents destroyed or damaged during the manufacturing process (e.g., vitamins, colouring matter), or to "fix" the flavour (e.g., sorbitol added to powdered or crystalline citrus fruit juices). However, the heading **excludes** fruit juices in which one of the constituents (citric acid, essential oil extracted from the fruit, etc.) has been added in such quantity that the balance of the different constituents as found in the natural juice is clearly upset; in such case the product has lost its original character.

The vegetable juices of this heading may also contain added salt (sodium chloride), spices or flavouring substances.

However, the addition of water to a normal fruit or vegetable juice, or the addition to a concentrated juice of a greater quantity of water than is necessary to reconstitute the original natural juice, results in diluted products which have the character of beverages of **heading 22.02**. Fruit or vegetable juices containing a greater quantity of carbon dioxide than is normally present in juices treated with that product (aerated fruit juices), and also lemonades and aerated water flavoured with fruit juice are also **excluded** (**heading 22.02**).

It is seen from the above that fruit juices are extracted from fresh, healthy and ripe fruits through various processes followed by filtration to remove solids, aeration, homogenization and sterilisation. Such fruit juices to be classified under CTH 2009 can have added sugar, standardizing agent, preservatives as long as they retain their original character. However, addition of water to normal fruit juice or to a concentrated juice of a greater quantity of water than is necessary to reconstitute the original fruit juice results in diluted products are excluded from CTH 2009 and are to be classified as beverages of heading 2202. In the instant case, water constitutes around 76% in the products in question. The product is prepared by adding fruit juice, procured by the applicant (as per the letter addressed to the applicant by Food Systems Asia), to RO water. It is evident that this large quantity of water results in diluted product which as per the Explanatory Notes above gets classified under CTH 2202.

#### **Chapter 2202 of Customs Tariff covers**

<b>2202</b>	<b>WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED,  AND OTHER NON-ALCOHOLIC BEVERAGES, NOT INCLUDING FRUIT OR VEGETABLE JUICES OF HEADING 2009</b>
2202 10	- <i>Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured :</i>
2202 10 10	--- Aerated waters
2202 10 20	--- Lemonade
2202 10 90	--- Other
	- <i>Other :</i>
2202 91 00	-- Non alcoholic beer
2202 99	-- Other:
2202 99 10	--- Soya milk drinks, whether or not sweetened or flavoured
2202 99 20	--- Fruit pulp or fruit juice based drink
2202 99 30	--- Beverages containing milk
2202 99 90	--- Other



**HSN Explanatory Notes to Chapter 2009** states

**22.02 - Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09.**

2202.10 - Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured

- Other :

2202.91 - - Non-alcoholic beer

2202.99 - - Other

This heading covers non-alcoholic beverages, as defined in Note 3 to this Chapter, not classified under other headings, particularly **heading 20.09** or **22.01**.

**(A) Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured.**

This group includes, *inter alia* :

(1) **Sweetened or flavoured mineral waters** (natural or artificial).

(2) **Beverages such as lemonade, orangeade, cola**, consisting of ordinary drinking water, sweetened or not, flavoured with fruit juices or essences, or compound extracts, to which citric acid or tartaric acid are sometimes added. They are often aerated with carbon dioxide gas, and are generally presented in bottles or other airtight containers.

**(B) Other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09.**

This group includes, *inter alia* :

(1) **Tamarind nectar rendered ready for consumption as a beverage** by the addition of water and sugar and straining.

(2) **Certain other beverages ready for consumption**, such as those with a basis of milk and cocoa.

From the above, it is seen that, 'Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and Other Non-alcoholic beverages, not including fruit or vegetable juices of Heading 2009' are covered under CTH 2202. Further, The Explanatory Notes classifies 'Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured' under CTH 220210. As per the explanatory notes, this group includes

(1) Sweetened or flavoured mineral waters (natural or artificial)

(2) Beverages such as lemonade, Orangeade, cola, consisting of ordinary drinking water, sweetened, flavoured with fruit juices/ compound extracts and often aerated with Carbon-di-oxide gas and presented in bottles or other airtight containers.

In the case at hand, the manufacturing process of the products involves addition of Grape juice (13%) to the filtered sugar solution (86%- 76% RO water and 10%

water by 2 to 3%), cooled to room temperature, to which additives and preservatives as per the formulation and coloring & flavoring agent are added. This is mixed well by circulation for 3 hrs carbonated at 20 deg Celsius (0.61%) which is chilled and filled at 2-4 deg Celsius, capped & shrink wrapped. These are sold as 'Carbonated Fruit Beverage'. These beverages fall squarely under the category mentioned in the Para (A) (2) of the Explanatory Notes above. That is they are classifiable under CTH 220210. Further, to be classified as 'fruit pulp or fruit juice' under CTH 22029020, the main ingredient of the product is to be the fruit pulp or juice, which is not the case at hand.

6.5 As per the First Schedule to Customs Tariff, CTH 22021010 covers 'Aerated waters' and CTH 22021090 covers 'Others'. To further classify them, we may resort to the FSSAI regulations above to understand what aerated waters are.

#### **Para 2.10.6 BEVERAGES NON-ALCOHOLIC - CARBONATED**

1. **CARBONATED WATER** means water conforming to the standards prescribed for Packaged Drinking Water under Food Safety and Standard Act, 2006 impregnated with carbon dioxide under pressure and may contain any of the following singly or in combination:

1. Sugar, liquid glucose, dextrose monohydrate, invert sugar, fructose, honey, fruits and vegetables extractives and permitted flavouring, colouring matter, preservatives, emulsifying and stabilising agents, citric acid, ascorbic acid and sorbitol, tartaric acid, phosphoric acid, lactic acid, ascorbic acid, malic acid, edible gums such as guar, karaka, carobean, furcellaran, tragacanth, gum ghatti, edible gelatin, albumin, licorice and its derivatives, salts of sodium, calcium and magnesium, vitamins, Caffeine not exceeding 145 parts per million, Ester gum (Glycerol ester of wood resin) not exceeding 100 parts per million, Gellan Gum at GMP level and quinine salts not exceeding 100 parts per million (expressed as quinine sulphate). It may also contain Saccharin Sodium not exceeding 100 ppm or Acesulfame-K not exceeding 300 ppm or Aspartame (methyl ester) not exceeding 700 ppm. Or sucralose not exceeding 300 ppm or Neotame not exceeding 33 ppm.

**Category 14.1.1 of Appendix A** to the regulations states

##### **14.1.1 Waters**

Includes natural waters (14.1.1.1) and other bottled waters (14.1.1.2), each of which may be noncarbonated or carbonated.



#### **14.1.1.2 Table waters and soda waters.**

*Includes waters other than natural source waters that may be carbonated by addition of carbon dioxide and may be processed by filtration, disinfection, or other suitable means. These waters may contain added mineral salts such as table water, bottled water with or without added minerals, purified water, seltzer water, club soda, and sparkling water. Carbonated and non-carbonated waters containing flavours are found in category 14.1.4*

It is seen from the above that waters with added carbon dioxide which may contain added preservatives and flavoring, sugars are separately classified under Para 2.10.6 as 'Carbonated Water' and Category 14.1.1.2 as 'table waters and soda waters' which are different from 'Carbonated Fruit Beverages or Fruit Drinks' of Para 2.3.30 and Category '14.1.4.1' of FSSAI regulations. As discussed in Para 6.2 above, the applicants product is classified under Para 2.3.30 of FSSAI and not para 2.10.6. It is evident that the 'carbonated water' described in Para 2.10.6 of FSSAI regulations are the 'Aerated Waters' covered under CTH 22021010. Therefore, the applicant's product is not classifiable as 'Aerated Waters' under CTH 22021010 and the product commercially named as 'K juice Grape' is classifiable under CTH '22021090- Other' as it contains the Grape fruit juice with added natural and artificial flavours.

7. Sl no 12 of Schedule IV of Notification No.1/2017-Central Tax (Rate)as amended and Sl.No.12 of Schedule IV of Notification No.II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended states as below where the goods are taxable to 14% CGST and 14% SGST:

S. No.	Chapter / Heading / Subheading / Tariff item	Description of Goods
12	2202 10	All goods [including aerated waters], containing added sugar or other sweetening matter or flavoured

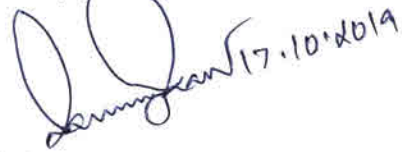
8 In view of the above facts we rule as under:

#### **RULING**

2. The product 'K Juice Grape' falls under the category of "Other" under CTH 2202 10 90. The applicable rate of tax is 14% CGST vide Sl.No.12 of Schedule IV under Notification No.1/2017-Central Tax (Rate) and 14% under SGST at 14% vide Sl.No.12 of Schedule IV under Notification No.II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended.

3. Not answered as not covered under Section 97(2) of the Act

  
Ms. Manasa Gangotri Kata,  
Member, CGST

  
Shri. Kurinji Selvaan V.S.,  
Member, TNGST

To

M/S. Kalis Sparkling Water Private  
No. E72-E79 And E88-E95  
Sipcot Industrial Complex  
Pallapatti Post Nilakottai Taluk.  
Dindugal. 624 201.



Copy submitted to :-

1. The Additional Chief Secretary / Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk, Chennai – 600 005.
2. The Principal Chief Commissioner of CGST & Central Excise,  
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam,  
Chennai – 600 034.

Copy to:

3. The Commissioner of GST & C.Ex., Madurai Commissionerate.  
Central Revenue Building, No.4, Lal Bahadur Shastri Road, Bibikulam,  
Madurai 625 002.
4. The Assistant Commissioner (ST),  
Nilakottai Assessment Circle  
No: 1-4-38, B6 & B7, Madurai Road, Periyar Colony,  
Nilakottai-624 208.
5. Master File / spare – 1.