Appellant: Assistant Commissioner of Commercial Taxes, LGSTO 40, Bangalore. Person who sought the advance ruling: M/s Karnataka Co-operative Milk Producers Federation Ltd. (formerly known as KMF), Bengaluru, GSTIN 29AAAAK1110G1Z7

Appellate Authority for Advance Ruling — Karnataka

ORDER NO. KAR/AAAR-13/2019-20, DATE: 11-02-2020 Dated **11.02.2020**

Q Questions Before the Authority

- Whether the Flavoured Milk is liable to be classified under HSN 0402 99 90 or under 2202 99 30 or under any other Chapter?

F Facts

The applicant, a dairy federation, manufactures and markets flavoured milk and sought an advance ruling on its HSN classification, either under 0402 99 90 or 2202 99 30. The Authority for Advance Ruling, by order KAR/ADRG 88/2019 dated 26.09.2019, held the product classifiable under 0402 99 90. Before the application was filed on 20 March 2019, the DGGI, Bangalore had issued a letter dated 7 January 2019, a summons under Section 70 dated 9 January 2019 and an incident report dated 17 January 2019 on the same classification issue. The Appellate Authority notes that the applicant did not disclose these proceedings.

H Ruling

The Appellate Authority allowed the Department's appeal and declared the Authority for Advance Ruling's order dated 26.09.2019 **void ab initio** , because it was vitiated by the bar in the proviso to Section 98(2) of the CGST Act, since an investigation on the same question was already pending. The Appellate Authority expressly declined to decide the classification of flavoured milk because the matter is pending in a proceeding under the Act.

R Reasoning

The Appellate Authority held that the proviso to Section 98(2) bars admission of an advance ruling application where the same question is already pending in any proceeding under the Act. The DGGI's letter, summons and incident report, all on flavoured milk classification, showed that such a proceeding was pending when the application was filed. The authority rejected the applicant's argument that the January 2019 letters were routine document requests and not summons, relying on the Section 70 summons dated 9 January 2019. Because the order was void from the outset, the Appellate Authority held that the classification question did not arise and did not discuss it.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

Section 98(2) of the CGST Act, 2017, including its proviso (quoted in the order)

Section 70 of the CGST Act, 2017 (summons issued by DGGI)

Section 100 of the CGST Act, 2017 and KGST Act, 2017 (appeal)

Section 101 of the CGST Act, 2017 and KGST Act, 2017 (appellate proceedings)

! For the Practitioner

This order is useful for a practitioner who needs to check whether a pending departmental investigation bars an advance ruling application under the proviso to Section 98(2). It settles that a DGGI summons or investigation on the same question, pending when the application is filed, is enough to void the ruling, even where the applicant argues the letters were only document requests. It does not decide the HSN classification of flavoured milk, and it does not address whether a ruling would stand if the investigation had concluded or had not been disclosed to the Authority in a different way.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> kar_aaar_13_2019-20_karnatakacooperative.pdf

Prepared 18-11-2026.

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