

Eskag Pharma Pvt Ltd

Authority for Advance Ruling — West Bengal

46/WBAAR/2018-19 dated 26/03/2019

Q Questions Before the Authority

- Classification of fifteen products under the GST Act

F Facts

The applicant is a manufacturer of pharmaceuticals and medicaments seeking an advance ruling on the classification of fifteen specific products. They contend that these products have therapeutic or prophylactic uses and should be classified under HSN 3004. The Revenue department argued that the products are dietary or health supplements and should be classified under HSN 2106.

H Ruling

Products at SI Nos. 2 to 13

HSN 2106

Classified as food preparations not elsewhere specified

The Authority ruled that the products labeled as dietary or health supplements are not medicaments and are excluded from Chapter 30. Consequently, the products listed under serial numbers 2 to 13 are classified under HSN 2106. The ruling emphasizes that the user's perception and the manufacturer's labeling are critical for classification.

R Reasoning

The Authority relied on the **common parlance test** and the information provided on product labels to determine the nature of the goods. It noted that several products explicitly state they are not intended to diagnose, treat, or cure diseases, which excludes them from Chapter 30 under Note 1(a). Furthermore, the applicant failed to provide evidence of a drug manufacturing license for these products, undermining their claim of therapeutic use. The decision turned on the interpretation of HSN 3004, which requires a product to be primarily meant for **therapeutic or prophylactic uses** to qualify as a medicament.

P Provisions Relied On

Section 97(2)(a) of the GST Act

Section 100 of the GST Act

Section 3(b) of the Drugs and Cosmetics Act, 1940

Note 1(a) of Chapter 30 of the Tariff Act

Notification No. 1/2017-CT (Rate)

Notification No. 41/2017-CT (Rate)



For the Practitioner

This ruling clarifies that dietary and health supplements, even if prescribed by doctors, are generally classified under HSN 2106 rather than HSN 3004 if they lack substantial curative value or are labeled as food supplements. It serves as a warning that the absence of a drug manufacturing license can be used against an applicant claiming medicament status. It does not decide the classification of products not labeled as dietary or health supplements.

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 -> [wb_46_2018-19_eppl.pdf](#)

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