M/s Imperial Life Sciences Pvt. Ltd., Plot No. 463, Sector-367, Pace City-2, Gurgaon, Haryana (GSTIN 06AABCI5252Q1Z8)

Authority for Advance Ruling — Haryana

ADVANCE RULING NO.HAR/HAAR/R/2019-20/15 (In Application No.: 15/2… Dated **15.01.2020**

Q Questions Before the Authority

- Whether "LABORATORY REAGENT" is classifiable under Tariff Heading 3822 00 90 at S.No. 80 of Schedule II ("All diagnostic kits and reagents", 6%) of CGST Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017 (as amended) and Notification No. 35/2017-State Tax (Rate), dated 30.06.2017 (as amended),
- or as "Goods which are not specified in Schedule I, II, IV, V or VI" at Sl. No. 453 of Schedule III under the same notifications.

F Facts

The applicant imports and supplies laboratory reagents under Chapter 3822 to Government Research Institutions for scientific and laboratory research. Until June 2019 it paid IGST at 12% under S.No. 80 of Schedule II. The Customs Appraising Department then took the view that laboratory reagents under Tariff Heading 3822 cannot attract the Schedule II rate and fall under the residual entry at S.No. 453 of Schedule III, which would attract a higher rate, as the department contended.

H Ruling

Whether laboratory reagents fall under S.No. 80 of Schedule II (Heading 3822, "All diagnostic kits and reagents")	**No. Laboratory reagents are not covered by S.No. 80 of Schedule II.**	The Authority read "diagnostic kits and reagents" as diagnostic kits and diagnostic reagents only. A diagnostic reagent is one used to evaluate physical, bio-physical or bio-chemical processes in humans and animals.
Under which entry laboratory reagents fall (Schedule II S.No. 80 or Schedule III S.No. 453)	**Serial No. 453 of Schedule III, the residual entry for "Goods which are not specified in Schedule I, II, IV, V or VI".**	The rate applicable under S.No. 453 is not stated in the operative ruling. The rate of 18% appears only in the Customs department's view as recorded in the facts.

The Authority ruled that "LABORATORY REAGENT" are goods not specified in Schedules I, II, IV, V or VI, and so fall under Serial No. 453 of Schedule III of the CGST and IGST notifications. It held that the Schedule II entry "All diagnostic kits and reagents" means diagnostic kits and diagnostic reagents only, and does not cover laboratory reagents generally. The operative ruling does not state the rate, so the rate should be checked in the full order.

R Reasoning

The Authority applied the Explanation to the notification, which imports Customs Tariff Act 1975 headings and the

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

interpretive rules, and then considered the wording of S.No. 80. It accepted the applicant's point that Heading 3822 covers laboratory reagents, but held that the Schedule II entry is limited to diagnostic kits and diagnostic reagents. It relied on the distinction between diagnostic reagents and wider laboratory reagents, and on the fact that some reagents are integral to diagnostic kits, such as agarose in an Ouchterlony double diffusion kit. Because the entry does not cover laboratory reagents, the residual entry at S.No. 453 applies. The applicant's reliance on General Rule 3(a) and HPL Chemicals was argued before the Authority but is not expressly adopted in the reasoning.

P Provisions Relied On

- Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017, S.No. 80 of Schedule II and S.No. 453 of Schedule III
- Notification No. 35/2017-State Tax (Rate), dated 30.06.2017 (as amended), corresponding entries
- Section 9(1) of the CGST Act and the HGST Act, as cited in the order
- Explanation (1) and (2) to Notification No. 1/2017-Central Tax (Rate), referring to the First Schedule and interpretive rules of t…
- Customs Tariff Act, 1975, First Schedule, Tariff Heading 3822 and sub-headings 3822 00 11, 3822 00 12, 3822 00 19 and 38…
- General Rule 3(a) of the Harmonised System interpretive rules (argued by the applicant)
- Section 174(1) of the CGST Act, as cited in the applicant's submissions
- HPL Chemicals Ltd. v. Commissioner of Central Excise, Chandigarh (Supreme Court, 2006), cited by the applicant

! For the Practitioner

This ruling helps suppliers of general laboratory reagents who have been paying the 6% rate under S.No. 80, since it confirms that the Schedule II entry does not reach them. It settles the classification question for the applicant as a matter of advance ruling. It does not decide how reagents used in medical diagnosis are to be classified, and it does not bind the Customs department. A practitioner should check whether the rate under S.No. 453 is stated in the full order and whether the department has appealed.

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 -> har_aar_15_2019-20_15.01.2020_ilspl.pdf

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