

Akansha Hair & Skin Care Herbal Unit Pvt Ltd

Authority for Advance Ruling — West Bengal

02/WBAAR/2018-19

Dated 09.04.2018

Q Questions Before the Authority

- What is the correct commodity classification under the GST Tariff for 33 skin care products manufactured by the applicant, specifically whether they qualify as Ayurvedic Medicaments under HSN 3004 or skin care/cosmetic preparations under HSN 3304?

F Facts

The applicant manufactures 33 skin care and toilet preparations following Ayurvedic formulas under a valid drug license issued under the Drugs and Cosmetics Act, 1940. The applicant contended that the products have therapeutic/prophylactic properties, are put up in retail packing, and should be classified as Ayurvedic Medicaments under HSN 3004. During proceedings, the applicant acknowledged that three products (Swarnajyoti, Sunayana, and Tarumitra-60) were not yet manufactured or in existence.

H Ruling

Classification of Rupam (Pimple Pack) and Pailab (Anti-Crack Cream)	Classifiable under heading 3004 as Medicament	Offered primarily for treatment or prevention of specific skin disorders
Classification of Swarnajyoti, Sunayana and Tarumitra-60	No ruling pronounced	Products have not yet come into existence
Classification of remaining 28 skin care products	Classifiable under heading 3304	Not offered primarily as medicaments; functions are cosmetic or general skin care

The Authority held that only **Rupam (Pimple Pack)** and **Pailab (Anti-Crack Cream)** qualify as medicaments under **heading 3004** as they are offered primarily for treatment or prevention of specific skin disorders. No ruling was pronounced on Swarnajyoti, Sunayana, and Tarumitra-60 as they were not in existence. The remaining 28 products are not offered primarily as medicaments and are classifiable under **heading 3304** as skin care or cosmetic preparations.

R Reasoning

The Authority evaluated the **twin test** laid down by the Supreme Court in Puma Ayurvedic Herbal and Baidyanath Ayurved Bhawan, which considers common parlance/user perception alongside formulation from authoritative Ayurvedic texts. Under GST Chapter Notes, products specifically covered by heading 3304 (such as sunscreen, talcum powder, or face wash) or used primarily for care/beautification of skin remain under 3304 even if they have subsidiary therapeutic value or contain Ayurvedic ingredients. By analyzing product labels as written representations to retail consumers, the Authority found that only two products were represented and consumed

primarily for curing specific skin disorders, placing them under **heading 3004**.

P Provisions Relied On

Section 97(2)(a) of WBGST / CGST Act, 2017	Section 103(2) of WBGST / CGST Act, 2017
Section 104(1) of WBGST / CGST Act, 2017	Heading 3004 of the Customs Tariff Act, 1975
Heading 3304 of the Customs Tariff Act, 1975	Note 1(e) to Chapter 30 of the Customs Tariff Act, 1975
Note 3 to Chapter 33 of the Customs Tariff Act, 1975	Notification No. 1/2017-CT(Rate) dated 28/06/2017

! For the Practitioner

Manufacturing under an Ayurvedic drug license using traditional ingredients is insufficient to claim classification as a medicament under **heading 3004**. The primary intended purpose as communicated via product labels and understood in common parlance must be the treatment/cure of a specific ailment rather than general skin care or cosmetic enhancement. Additionally, advance rulings will not be given for hypothetical or non-existent products.

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 -> 02-wbaar-18-19 west bengal.pdf

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Pune (HQ)

RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Delhi

3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Ahmedabad

Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp...

Mumbai

104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Gurugram

Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram...

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com