M/s Anik Milk Products Private Limited, 2/1, South Tukoganj, Behind High Court, Indore, Madhya Pradesh, 452001

Authority for Advance Ruling — Madhya Pradesh

Order No. 19/2019 dated 18/10/2019 (Case No. 16/2019), as printed in the… Dated **18.10.2019**

Q Questions Before the Authority

- Whether flavoured milk is taxable at the rate of 5% under Schedule IV of the GST Act (the applicant sought classification of flavoured milk under GST, citing Supreme Court and Karnataka High Court judgments).

F Facts

The applicant processes milk and milk products, including flavoured milk, which it describes as a sweetened dairy drink made with milk, sugar, permissible colours and natural or artificial flavours. The DGGI, Bhopal Zonal Unit had already started an enquiry into the classification of flavoured milk and issued summons to the applicant under Section 70 of the CGST Act, with a date of appearance of 18.07.2019. The applicant filed its advance ruling application online on 22.07.2019 while that enquiry was still pending.

H Ruling

The Authority rejected the application as not admissible under the **first proviso to Section 98(2)** because the same question was already pending before the DGGI when the application was made. It did not examine the merits of the classification question. The Authority also found that the applicant had not disclosed the pending DGGI proceedings at Sr. No. 17 of the application form and that the filing was made with an intention to circumvent those proceedings.

R Reasoning

The Authority accepted that the question was one of classification under Section 97(2)(a), but noted the DGGI letter showing that an enquiry on the same issue was already under way. It applied the first proviso to Section 98(2), which bars admission where the question is already pending before any authority under the Act, and it relied on the applicant's authorised representative's confirmation that summons had been received. The Authority also noted that the application fee was not paid in full on filing: Rs. 5,000 was paid towards SGST, and the CGST portion of Rs. 5,000 was paid later by challan dated 14.10.2019. Because the ruling is a rejection on admissibility, it contains no answer on the 5% rate.

P Provisions Relied On

Section 97(2)(a) CGST Act, 2017 (classification of goods)

Section 98(2) CGST Act, 2017, including the first proviso (application not to be admitted where the question is already pendin…

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

Section 98(4) CGST Act, 2017 (order under which the ruling is issued)

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

Section 103(2) and Section 104(1) CGST Act, 2017 (validity of ruling and its being declared void)

! For the Practitioner

A practitioner would use this order as a caution that a pending DGGI or other departmental enquiry on the same question will bar admission of an advance ruling application, and that the form must disclose such proceedings. It does not decide whether flavoured milk attracts 5% under Schedule IV, and it contains no reasoning on that question. Anyone relying on the order should first confirm the printed order number, since the listing reference differs from the document.

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 -> order_anik_milk_products_pvt._ltd.pdf

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