M/s. PREM GHAN PRODUCTS, 233/41, Marble Mandi, Nemawar Road, Palda, Indore - 452001 (GSTIN 23AAPFP5853P1ZG)

Authority for Advance Ruling — Madhya Pradesh

Order Number 17/2018, dated 23.10.18 (Case Number 16/2018). The copy… Dated **23.10.2018**

Q Questions Before the Authority

- Whether the goods manufactured by the applicant (various types of mouth fresheners), prepared by mixing inputs such as kharak, sugar, khopra, sounf, fennel, dates, mishri, saccharin, menthol, papaya fruit or natural flavouring substances, are liable to be classified under 'Miscellaneous Edible Preparations' 2106 (taxed at 18% GST as currently followed), or under Chapter 20 'Preparations of vegetable, fruit, nuts or other parts of plants' (taxable at 12% GST)?

F Facts

The applicant manufactures and trades in mouth fresheners by mixing kharak, khopra, sugar, saunf, mishri, fennel, dates, saccharin, menthol, papaya fruit or natural flavouring substances, and sells them under various brand names. It has classified the product under heading 2106 of the HSN and paid GST at 18%, having classified it under the same heading under the Central Excise Tariff before 1 July 2017. The applicant said that other market players sell similar products under Chapter 20 at 12%, and that its raw materials are not named as 'mouth freshener' in the GST tariff.

H Ruling

Classification of the applicant's mouth freshener (mixture of kharak, sugar, khopra, saunf, dates, mishri, saccharin, menthol, papaya fruit or natural flavouring substances)	**Chapter Heading 2106, 'Food preparations not elsewhere specified or included'; GST at 18% (9% CGST + 9% SGST, or 18% IGST)**	Chapter 20 at 12% rejected. The order's Para 8.1 says the product will merit classification under 2106 'as described in the Application', so the ruling is tied to the product as described. Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, entry Sr. No. 23 of Schedule III, read with the corresponding MPGST notification (Sr. No. 23 of Schedule III). The question text in the order refers to 'Chapter 21' but then names heading 2106; the ruling itself is under Chapter Heading 2106.

The authority held that the impugned mouth freshener is classifiable under Chapter Heading 2106 as 'Food preparations not elsewhere specified or included' and attracts GST at the prevailing rate of 18% (9% CGST plus 9% SGST, or 18% IGST). The authority declined to review the settled classification, since there was no change in ingredients or manufacturing process from the pre-GST regime. The product is therefore not to be treated under Chapter 20 at 12%.

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

R Reasoning

The authority admitted the application under Section 97(2)(a) of the CGST and MPGST Acts as a matter of classification of goods. It noted that the applicant itself stated its pre-GST classification under heading 2106 was in line with Central Excise law, which showed no dispute on classification before GST. It found no change in ingredients or process, so there was nothing to justify reviewing the settled classification. It held that classification under GST rests on the HSN, so a commodity does not change heading between the pre-GST and GST regimes. The applicant's reliance on other manufacturers' Chapter 20 classification was not supported by any concrete material on record.

P Provisions Relied On

- Section 97(2)(a) of the CGST Act, 2017 and the corresponding provision of the MPGST Act, 2017 (classification of goods)
- Section 98 of the CGST Act, 2017 and the MPGST Act, 2017 (proceedings of the Authority for Advance Ruling)
- Section 103(2) of the GST Act (binding effect of the ruling)
- Section 104(1) of the GST Act (ruling declared void)
- Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 23 of Schedule III
- Corresponding MPGST notification, Sr. No. 23 of Schedule III
- Harmonised System of Nomenclature, heading 2106 and Chapter 20 (referred to in the order)

! For the Practitioner

A practitioner advising on mouth freshener or similar compounded sweetener-and-spice products can cite this ruling for the position that such products fall under heading 2106 at 18%, provided the ingredients and process match those described. It also shows that a claim of divergent classification by competitors, without evidence, will not prompt the authority to revisit settled classification. The ruling binds only the applicant under Section 103(2). It does not decide the classification of products of other manufacturers, and it does not address products with materially different ingredients, such as those with a significant fruit or nut content, which could fall under Chapter 20.

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 -> 17-2018_pgp.pdf

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