KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING
6TH FLOOR, VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,
GANDHINAGAR, BANGALORE – 560009

(Constituted under section 99 of the Karnataka Goods and Services Tax Act, 2017 vide Government of Karnataka Order No FD 47 CSL 2017, Bangalore, Dated:25-04-2018)

BEFORE THE BENCH OF

SHRI. D.P.NAGENDRA KUMAR, MEMBER

SHRI. M.S.SRIKAR, MEMBER

ORDER NO.KAR/AAAR-08//2019-20 DATE:14.01.2020

Sl. No	Name and address of the appellant	M/s.Chromachemie Laboratory Private Limited, 101, Model Export Bhavan,14th Cross, 2nd Stage, PeenyaIndustrial Area, Bangalore – 560 058.
1	GSTIN or User ID	29AAFCC0285K1ZF
2	Advance Ruling Order against which appeal is filed	KAR/ADRG 71/2019 Dated: 23 Sept 2019
3	Date of filing appeal	23-10-2019
4	Represented by	Sri Ravi Raghavan, Ms Sandhya Sarvode and Shri. Rohan Karia, Advocates
5	Jurisdictional Authority- Centre	Commissioner of Central Tax, Bangalore North West Commissionerate
6	Jurisdictional Authority- State	LGSTO-075 Bengaluru
7	Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs. 20,000/- made vide CIN NO. CNRB19102900192138 Dated. 18-10-2019

PROCEEDINGS

(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *parimateria*and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

2. The present appeal has been filed under section 100 of the Central Goods and Service Tax Act 2017 and Karnataka Goods and Service Tax Act 2017 (herein after referred to as CGST Act, 2017 and SGST Act, 2017) by M/s. Chromachemie Laboratory Private Limited, (herein after referred to as Appellant) against the advance Ruling No. KAR/ADRG 71/2019 Dated: 23 Sept 2019.

Brief Facts of the case:

3. The Appellant, is a leading organization engaged in new product development for the pharmaceutical, biopharmaceutical and food industries.The Appellant *inter alia*imports Pharmaceutical Reference Standards *(hereinafter also referred to as 'PRS')* of various official pharmacopoeias like US Pharmacopoeia (USP), European Pharmacopeia (EDQM), British Pharmacopoeia (BP) and supplies them to all major pharmaceutical companies in India.

4. PRS is a reference analytical sample provided by the official global pharmacopoeias required to be used by the pharmaceutical manufacturers to confirm that their product quality standards are in conformity with the respective monographs prescribed. The drug manufacturing companies use these PRS in their laboratory tests on all drug substances for determining the purity of medicine and identification and quantification of pharmaceutical impurities.

5. The Appellant is importing PRS as 'Prepared Laboratory Reagent' and classifying the same under Tariff Entry 3822 00 90 of the Customs Tariff Act, in line with the decision of Hon'ble CESTAT, Bangalore in the matter which is reported in ***LGC Promochem India Pvt. Ltd. v. Commissioner of Customs & Service Tax, Bangalore,***reported in***2016 (340) E.L.T.***

406 (Tri. - Bang.). This decisionhas been upheld by Hon'ble Supreme Court of India and reported in ***2018 (360) E.L.T. A173 (S.C.)***.

6. The Appellant filed an application for advance ruling before the Karnataka Authority for Advance Ruling, seeking a ruling on the following question:

"Whether the Pharmaceutical Reference Standards (Prepared Laboratory Reagents) imported and supplied by the applicant and classified under Tariff Item 3822 00 90 of the Customs Tariff Act, 1975 is covered under Entry No. 80 of Schedule-II to Notification No. 1/2017- Integrated Tax (Rate) dated 28th June 2017 attracting a levy of Integrated Tax at the rate of 12%?"

7. The Karnataka Authority for Advance Rulings vide order No. KAR ADRG 71/2019 dated 23.09.2019 held that the Prepared Laboratory Reagents or Pharmaceutical Reference Standards, which are not diagnostic reagents, are not covered under Entry Sl. No. 80 of Schedule II to the Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and the same is covered under the residuary Entry under Sl. No. 453 of Schedule III to the Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017 attracting Integrated Tax at the rate of 18 per cent.

8. The Advance Ruling Authority held that the Pharmaceutical Reference Standards classifiable under Tariff Item 3822 00 90 is a reagent not used for diagnostic purposes;that the description under Entry under Sl. No. 80 to Schedule II to the Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 means all "diagnostic kits and diagnostic reagents";that the principle of *ejusdem generis* is applicable and the reagents of the class of diagnostic reagents only are covered under the Entry under Sl. No. 80 to Schedule II to the Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017 and that the word "diagnostic" is applicable not just to "kits" but also to "reagents";that the commodities of HSN Code 3822 00 11, 3822 00 12 and 3822 00 19 which are for medical diagnosis are covered under the Entry under Sl. No. 80 to Schedule II to the Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and not all laboratory reagents;that the word "and" is a word of conjunction and it joins two goods "kits" and "reagents" and that they are with the common adjective of being "diagnostic" and hence joins two classes of goods "diagnostic kits" and "diagnostic reagents";that the goods of Chapter Heading 3822 other than

"diagnostic kits" or "diagnostic reagents" are not covered under any specific entry of Schedule I or Schedule II or Schedule IV or Schedule V or Schedule VI of the Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and hence the Pharmaceutical Reference Standards gets covered under the entry under Sl. No. 453 of the Schedule III which is taxable at 18% GST.

9. Aggrieved by the ruling of the Authority, the Appellant has filed this appeal before us on the following grounds:

9.1. At the outset, the Appellant submitted that in terms of Section 98(6) of the CGST Act, the Advance Ruling Authority should have pronounced the Ruling in writing within 90 days from the date receipt of application. In the instant case, the Appellant filed the application before the Karnataka Authority for Advance Ruling on 28.09.2018 whereas the Authority has pronounced the impugned Ruling bearing No. KAR ADRG 71/2019 dated 23.09.2019 after a period of almost 12 months from the date of application. Thus, the Appellant submits that there is an inordinate and unexplained delay in pronouncement of the Ruling by the Advance Ruling Authority. The Appellant relied on several decisions of the Courts and Tribunal to submit there is a gross violation of the statutory provisions of law as provided under Section 98(6) of the CGST Act read with Rule 106 of the CGST Rules.

9.2. The Appellant submits that Chapter 38 of the Customs Tariff Act, 1975 (hereinafter referred to as 'CTA')provides for classification of *"Miscellaneous chemical products"*.Chapter Heading 3822 covers *"Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials"*. They submitted that Sub-heading 3822 00 covers the following goods:

- Diagnostic reagents on a backing;
- Laboratory reagents on a backing;
- Prepared diagnostic reagents on a backing, other than those of heading 3002 or 3006;
- Prepared diagnostic reagents without a backing, other than those of heading 3002 or 3006;
- Prepared laboratory reagents on a backing, other than those of heading 3002 or 3006;

- **Prepared laboratory reagents without a backing, other than those of heading 3002 or 3006**; and
- Certified reference materials.

9.3. The Harmonised System of Nomenclature (HSN) Explanatory Notes at Page No. VI-3822-1 which relates to Chapter Heading 38.22 states that *"This heading covers diagnostic or laboratory reagents on a backing, **prepared diagnostic or laboratory reagents**, other than diagnostic reagents of heading 30.02 or diagnostic reagents designed to be administered to the patient and blood grouping reagents of heading 30.06.....**Prepared laboratory reagents include not only diagnostic reagents, but also other analytical reagents used for purposes other than detection or diagnosis.** Prepared diagnostic and laboratory reagents may be used in medical, veterinary, scientific or industrial laboratories, in hospitals, in industry, in the field or, in some cases, in the home.*

9.4. In the instant case, the imported goods *viz.*Pharmaceutical Reference Standards ('PRS') is a *'prepared laboratory reagent without a backing'* with a label and proper instructions for its use.

9.5. The Appellant reiterates that it is not in dispute that the product *viz.* Pharmaceutical Reference Standards is a Prepared Laboratory Reagent intended to be used exclusively for a specified analytical calibrating and referencing purposes and classifiable under Tariff Item 3822 00 90 of the Customs Tariff.The Appellant submits that the Government of India, on the recommendations of the GST Council vide the Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2018 *(hereinafter referred also to as 'Rate Notification')* has notified the applicable rate of the Integrated Tax that shall be levied on inter-State supply of goods. The Appellant submits that essentially the issue under consideration in the present appeal is the applicability of rate of tax on supply of the Prepared Laboratory Reagent classifiable under Tariff Item 3822 00 90, in terms of in terms of the Rate Notification. It is submitted that the **only** Entry in the Rate Notification which covers all diagnostic kits and reagents falling under Chapter Heading 3822 is Entry No. 80 of Schedule-II, which provides for IGST rate at 12%. The relevant entry reads as follows:

Schedule-III – 12%		
S. No.	**Chapter/ Heading/ Sub-**	**Description of Goods**

	heading/ Tariff item	
80.	3822	All diagnostic kits and reagents

9.6. In this regard, the Appellant re-iterates that the HSN Explanatory Notes provides that the Heading 38.22 covers prepared diagnostic or laboratory reagents and prepared laboratory reagents include not only diagnostic reagents, but also other analytical reagents used for purposes other than detection or diagnosis. Prepared laboratory reagents may be used in medical, veterinary, scientific or industrial laboratories, in hospitals, in industry, in the field or, in some cases, in the home. Further the reagents should be clearly identifiable as being for use only as diagnostic or laboratory reagents which must be clear from their composition, labelling, instructions for in vitro or laboratory use, indication of the specific diagnostic test to be performed or physical form (e.g., presented on a backing or support).

9.7. It is further submitted that the Pharmaceutical Reference Standards imported by the Appellant is undisputedly Prepared Laboratory Reagents in the nature of 'other analytical reagents used for purposes other than detection or diagnosis' and classified under Tariff Entry 3822 00 90 to CTA.

9.8. The description under Entry No. 80 to Schedule II of the Rate Notification reads as *"All diagnostic kits and reagents"*. It is submitted that Entry No. 80 covers two types of goods: all diagnostic kits; **and** reagents.The Appellant submits that the meaning of the term ***'reagent'*** is wide enough to encompass both the diagnostic reagents as well as prepared laboratory reagent; that the description - *"All diagnostic kits and reagents"* includes the following types of reagents-

(a) Diagnostic reagents on a backing;

(b) Laboratory reagents on a backing;

(c) Prepared diagnostic reagents on a backing, other than those of heading 3002 or 3006;

(d) Prepared diagnostic reagents without a backing, other than those of heading 3002 or 3006;

(e) Prepared laboratory reagents on a backing, other than those of heading 3002 or 3006; and

(f) Prepared laboratory reagents without a backing, other than those of heading 3002 or 3006.

9.9. The Pharmaceutical Reference Standards imported by the Appellant is a 'Prepared laboratory reagents without a backing, other than those of heading 3002 or 3006' with a proper labelling and appropriate instructions for its use and iscovered under (f) *supra.* and thus consequentially covered under the term 'reagent' in Entry No. 80 of Schedule II of the Rate Notification which read as *"All diagnostic kits and reagents"*. Accordingly, the import and supply of *'Pharmaceutical Reference Standard'* would attract a levy of Integrated Tax at the rate of 12 per cent.

9.10. The Appellant submits that the expression "AND" used in the term 'All diagnostic kits and reagents' is separating the words and therefore the term 'Reagent' is a separately identified term. The Appellant submits that the said Entry under Sl. No. 80 to the Notification has been incorrectly interpreted by the Authority in the impugned Ruling; that the word 'reagent' is not preceded by the word 'diagnostic'. Thus, by restricting the entry to only 'Diagnostic Reagents' the Authority in the impugned Ruling is adding words to the Entry under the said Notification, and the same is against the principles of interpretation of law; that had the intention of the legislature been to include only diagnostic reagents in the above entry, then the legislature would have specified the same as 'all diagnostic kits and diagnostic reagents' in the Entry. The Appellant therefore submits that the word 'and' should be interpreted in a manner which is concomitant with the intention of the legislature and without adding words to the Entry under the said rate Notification.

9.11. The Appellant submits that in the matter of ***Commissioner of Commercial Tax, U.P. v. A.R. Thermosets (Pvt.) Ltd.*** reported in ***2016 (339) E.L.T. 500 (S.C.),*** the issue under consideration before the Apex Court was with respect to clarification about the rate of tax applicable to the sales of 'bitumen emulsion'. The principal controversy was whether "bitumen emulsion" is covered within Entry 22 of Schedule II of the VAT Act which only refers to the term "bitumen". The Apex Court held that when the Entry in question uses the word 'bitumen' without any further qualification or exclusion then it shall include all types of 'bitumen' which shares the composition identity, and in common and commercial parlance is would be treated as the same product. In view of the above judgment and applying the ratio to the instant case, the Appellant hereby submits that the term ***"reagent"*** used in the description under Entry No. 80 to Schedule-II of the Rate Notification has been used as a generic

expression and it would cover all reagents, which share and have common composition and commercial entity, and meet the popular parlance test.

9.12. Relying on several other case laws, the Appellant submitted that applying the ratio of the relied upon decisions, the term 'Reagents' in the entry Sl.No 80 covers all types of reagents viz. diagnostic reagents and laboratory reagents: prepared laboratory reagents as well. Furthermore, the word 'all' makes it abundantly manifest and plain that the Entry herein includes all kinds of reagents.The Appellant further submits that the Central Board of Indirect Taxes & Customs (Board) vide **Circular F. No. 296/07/2017-CX.9 dated 15.06.2017** provided for a list of goods with reduced tax liabilities under GST regime in comparison to erstwhile combined indirect tax rates.As per the said Circular, for the majority of supplies of goods, the tax incidence approved by the GST Council would be much lower than the erstwhile combined indirect tax rates levied [on account of Central Excise duty rates / embedded Central Excise duty rates / Service Tax post-clearance embedding, VAT rates or weighted average VAT rates, cascading of VAT over excise duty and tax incidence on account of CST, Octroi, Entry Tax, etc.] by the Centre and States. The Appellant submits that the list of such supplies, where the GST incidence would be lower than the erstwhile combined indirect tax rates also included an Entry under Sl. No. 48 as 'diagnostic kits and reagents'. In view of the said Circular dated 15.06.2017, the intention of the legislature was very clear to reduce the rate of tax on the supply of reagents.

9.13. The Appellant submits that entry under Sl. No. 453 to Schedule-III is a residuary entry which provides for an applicable rate of Integrated Tax at the rate of 18 per cent on all goods that are not specified in Schedule I, II, IV, V or VI of the Rate Notification. The Appellant further submits that the above residuary entry covers only those goods which are not specifically covered under in Schedule I, II, III, IV, V and VI of the Rate Notification.'Pharmaceutical Reference Standard' classified under Tariff Item 3822 00 90 to CTA is covered under more specific Entry No. 80 to Schedule-II of the Rate Notification which reads as *"All diagnostic kits and reagents"*. It is submitted that when the product is clearly falling under the ambit of a specific entry, then there shall be no reason to take resort to the residuary entry. Hence, 'Pharmaceutical Reference Standard' shall not fall under the residuary Entry No. 453 to Schedule III of the Rate Notification.

9.14. The Appellant further submits that when there is a specific Entry under the Rate

Notification covering laboratory reagent, classifying the products in the residuary entry is not warranted. This view can be supported from the plethora of judgements. In the following decisions, it has been held by the Court that when a product can be classified in specific entry, classification of the same in the residuary entry cannot be taken as refuge.

- ***Akbar Badruddin Jiwani v. Collector of Customs, [1990 (47) E.L.T. 161 (S.C.)]***
- ***Commissioner of Customs v. G.C. Jain, [2011 (269) E.L.T. 307 (S.C.)]***
- ***H.P.L. Chemicals v. C.C.E, [2006 (197) E.L.T. 324 (S.C.)],***
- ***Western India Plywoods v. Collector of Customs, [2005 (188) E.L.T. 365 (S.C.)],***
- ***C.C.E. v. Carrier Aircon, [2006 (199) E.L.T. 577 (S.C.)].***
- ***Speedway Rubber Company v. CCE, Chandigarh, [2002 (143) E.L.T. 0008 (S.C.)]***
- ***In Re: M & I Materials India Pvt. Ltd. 2018 (15) G.S.T.L. 423 (A.A.R. - GST)***
- ***In Re: Gopal Gireesh 2018 (13) G.S.T.L. 469 (A.A.R. - GST)***

9.15. The Appellant submits that the Entry Sl.No 80 of Schedule II under the Notification has been incorrectly interpreted by the Authority in the impugned Ruling. The impugned Ruling further applies the principle of *ejusdem generis* to conclude that the reagents of the class of diagnostic reagents are only covered under the Entry under Sl. No. 80 to Schedule II to the Rate Notification which is incorrect.

9.16. The Appellant submits that all the Notifications must be interpreted strictly. It is further submitted that no one is at liberty to add or modify the words of the entry while interpreting the scope of the notification. This has also been laid down by the Hon'ble Supreme Court in the following cases:***Saraswati Sugar Mills v. Commissioner of C. Ex., Delhi-III, 2011 (270) E.L.T. 465 (S.C.), Hotel Leela Venture Ltd. v. Commissioner of Cus. (Gen.), Mumbai, 2009 (234) E.L.T. 389 (S.C.): Commissioner of C. Ex., Jaipur v. Mewar BartanNirman Udyog, 2008 (221) E.L.T. 27 (S.C.)*** The Appellant further submits that term ***'and'*** as used in the Entry under Sl. No. 80 has been used to separate the words, ***'All diagnostic kits'*** and ***'Reagents'***. Therefore, the term ***'reagents'*** has to be treated as a separate word whose identity shall be separate from the words preceding it.

9.17. The Appellant further submits that since no specific exclusion or qualification which has been used before the word 'reagent' under Sl. No. 80 to evidence the exclusion of any

particular type of 'reagent', in the absence of such specific exclusion or qualification to the term 'reagent', both laboratory reagents and diagnostic reagents shall be covered under Sl. No. 80 to Schedule II of the Rate Notification.

PERSONAL HEARING:

10. The Appellants were called for a personal hearing on 3rd Dec 2019 and 24th Dec 2019 but they had sought for an adjournment on both occasions citing unavoidable circumstances. They were again called for a personal hearing on 10th Jan 2020 and were represented by their Advocates Shri. Ravi Raghavan, Ms Sandhya Sarvode and Shri. Rohan Karia. The Advocates reiterated the submissions made in the grounds of appeal. They also submitted that in the 16th GST Council Meeting dated 11.06.2017, the Agenda item No 3 (Sl.No 41) relates to the rate adjustments based on the recommendations received from Trade and Industry and the Fitment Committee as per its mandate and after analysing the tax incidence on the diagnostic and laboratory Reagents, made the recommendation that the proposed GST rate on "Diagnostic or Laboratory Reagents" will be 12% as against the GST Council approved rate of 18%. Subsequent to the 16th GST Council meeting on 11-06-2017, the CBIC issued the Circular dated 15-06-2017 giving the list of goods with reduced tax liabilities under GST regime in comparison to erstwhile combined indirect tax rates; that Sl.No 48 of the said Circular relates to "Diagnostic kits and reagents" classified under Chapter Heading 3822. In view of the submissions made in the grounds of appeal and during the personal hearing, they pleaded that the product is clearly falling within the ambit of Sl.No 80 of Schedule II of Notification No 01/2017 IT(R) and shall not fall under the residual entry of Sl.No 453 to Schedule III of the said rate Notification.

DISCUSSION & FINDINGS:

11. We have gone through the records of the case and considered the submissions made by the Appellant in their grounds of appeal, at the time of personal hearing as well as in their additional submissions.

12. The limited point for determination by us is regarding the interpretation of the entry Sl.No 80 of Schedule II of the GST rate Notification No 01/2017 IT (R) dated 28.06.2017.

The undisputed facts are that the Appellant is a science-based organization catering to the analytical and regulatory requirements of the manufacturing industries. They are the Authorized distributors of the US Pharmacopoeia Reference Standards and Publications and are also distributors of Reference Standards from other Pharmacopoeias. They import Pharmaceutical Reference Standards and supply them to major pharmaceutical companies in India.

13. Pharmaceutical Reference Standards are required to be used by drug manufacturers to ensure that the quality of the medicines produced by them are in conformity with the respective monographs prescribed by these official pharmacopoeias. Reference standards are one of the key factors for consistently good quality of pharmaceutical products. Reference Standards are substances of known purity which are intended to be used exclusively for a specified analytical, calibrating or referencing purpose and not to be used as Drugs, which should be clearly stated on the label and / or accompanying certificate or literature. The drug manufacturing companies use these Reference Standards in their laboratory tests on all drug substances for determining the purity of medicine and identification and quantification of pharmaceutical impurities.

14. Pharmaceutical Reference Standards are in the nature of Prepared Laboratory Reagents. These reagents include not only diagnostic reagents but also other analytical reagents used for purposes other than detection or diagnosis. Chapter Heading 3822 of the Customs Tariff Actcovers "*Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials*". The relevant heading of the Customs Tariff is extracted hereunder:

Tariff Item	**Description of goods**
3822	**Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials**
3822 00	- *Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials:*

	--- *For medical diagnosis:*
3822 00 11	---- Pregnancy confirmation reagents
3822 00 12	---- Reagents for diagnosing AIDS
3822 00 19	---- Other
3822 00 90	--- Other

In the instant case, there is no dispute that the Pharmaceutical Reference Standards imported by the Appellant are 'Prepared laboratory reagents without a backing' with a label and proper instructions for use. We have also seen a sample of the laboratory reagent wherein the label clearly indicates that it is for laboratory use only. It is also not in dispute that the correct classification of such laboratory reagents is Chapter Heading 3822 of the Customs Tariff.

15. With the introduction of GST, the GST Council has fitted the various goods under four tax slabs - 5%, 12%, 18% and 28%. Rate Notifications No 01/2017 dated 28-06-2017 were issued under CGST, SGST and IGST Acts whereby the various goods were categorized under different Schedules and each Schedule carried a different rate of tax. The Notification lists out the following Schedules for levy of Integrated Tax:

(i) 5 per cent. in respect of goods specified in Schedule I,

(ii) 12 per cent. in respect of goods specified in Schedule II,

(iii) 18 per cent. in respect of goods specified in Schedule III,

(iv) 28 per cent. in respect of goods specified in Schedule IV,

(v) 3 per cent. in respect of goods specified in Schedule V, and

(vi) 0.25 per cent. in respect of goods specified in Schedule VI.

Explanation (iii) to the Rate Notification provides that "tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975.

16. We are concerned with the entry Sl.No 80 of Schedule II of the said rate Notification which reads as under :

Schedule-II –12%		
S. No.	**Chapter/ Heading/ Sub-heading/ Tariff item**	**Description of Goods**
80.	3822	All diagnostic kits and reagents

The dispute in this case is whether the description of the goods given against the entry SL.No 80 of Schedule II applies to all reagents both diagnostic as well as laboratory reagents. When we read the description of the goods under Chapter Heading 3822 of the Customs Tariff together with the HSN Explanatory Notes for Heading 3822, we find that the said Heading covers prepared diagnostic or laboratory reagents and prepared laboratory reagents include not only diagnostic reagents, but also other analytical reagents used for purposes other than detection or diagnosis. Prepared laboratory reagents may be used in medical, veterinary, scientific or industrial laboratories, in hospitals, in industry, in the field or, in some cases, in the home. Further the reagents should be clearly identifiable as being for use only as diagnostic or laboratory reagents which must be clear from their composition, labelling, instructions for in vitro or laboratory use, indication of the specific diagnostic test to be performed or physical form (e.g., presented on a backing or support). The reagents covered under Heading 3822 includes:

(a) Diagnostic reagents on a backing;

(b) Laboratory reagents on a backing;

(c) Prepared diagnostic reagents on a backing, other than those of heading 3002 or 3006;

(d) Prepared diagnostic reagents without a backing, other than those of heading 3002 or 3006;

(e) Prepared laboratory reagents on a backing, other than those of heading 3002 or 3006; and

(f) Prepared laboratory reagents without a backing, other than those of heading 3002 or 3006.

17. We find that the reagents referred to in the Heading 3822 of the Customs Tariff are both diagnostic and laboratory reagents. In the GST rate Notification No 01/2017, the entry Sl.No 80 of Schedule II describes the goods under Chapter Heading 3822 as "All diagnostic kits and reagents". This implies that all reagents falling under Chapter Heading 3822 are covered under the said entry Sl.No 80. As mentioned earlier, the Heading 3822 of the

Customs Tariff applies to both diagnostic and laboratory reagents. Therefore, the correct way to read the entry Sl.No 80 of Schedule II would be "all diagnostic kits and all reagents". To limit the term "reagents" in the rate Notification as being applicable only to diagnostic reagents is an incorrect interpretation. When the Heading 3822 of the Customs Tariff clearly has within its fold reagents which are both diagnostic as well as laboratory reagents on a backing and prepared diagnostic and laboratory reagents with or without a backing, the use of the single word "reagents" in the entry Sl.No 80 of Schedule II should be understood as a generic word encompassing all the reagents mentioned under Heading 3822 of the Customs Tariff.

18. The interpretation given by the Authority for Advance Ruling that the entry Sl.No 80 covers only diagnostic kits and diagnostic reagents is not correct. The principle of *ejusdem generis* applied by the Authority in interpreting the entry Sl.No 80 is misconstrued. The rule of *ejusdem generis* applies when (1) the statute contains an enumeration of specific words; (2) the subjects of enumeration constitute a class or category; (3) that class or category is not exhausted by the enumeration; (4) the general terms follow the enumeration; and (5) there is no indication of a different legislative intent. In the instant case, the words used in the entry Sl.No 80 of Schedule II "diagnostic kits and reagents" are of one class of goods falling under Chapter Heading 3822 of the Customs Tariff. However, the general word "All" is preceding the enumeration and does not follow the enumeration. The rule of *ejusdem generis* has no inverse application. General words preceding the enumeration are not governed by this rule. Further, the phrase "All diagnostic kits and reagents" brings within its fold the entire range of diagnostic and laboratory reagents which have been listed in (a) to (f) of Para 16 above. There is no scope for bringing within its ambit other goods since the phrase is exhaustive in its enumeration. We also find that the Fitment Committee which was mandated to recommend suitable GST rates for goods, have, after taking into consideration the indirect tax rates which were in existence, recommended a rate of 12% for "Diagnostic or laboratory reagents". This recommendation has been implemented by entry Sl.No 80 of Schedule II of Notification No 01/2017 CT/IT(R) dated 28-06-2017. It is evident from the recommendations of the Fitment Committee that the legislative intent was to reduce the GST rate on all reagents from the rate which was prevalent in the earlier tax regime. Therefore, we are of the view that the principle of *ejusdem generis* has no application in this case and all reagents which are covered under Heading 3822 would be covered under Sl.No 80 of Schedule II of the rate Notification.

19. In view of the above, we pass the following order:

ORDER

The Pharmaceutical Reference Standards (Prepared Laboratory Reagents) imported and supplied by the Appellant and classified under Tariff Item 3822 00 90 of the Customs Tariff Act, 1975 is covered under Entry No. 80 of Schedule-II to Notification No. 1/2017-Integrated Tax (Rate) dated 28th June 2017 attracting a levy of Integrated Tax at the rate of 12%.

We set aside the Advance Ruling No KAR/ADRG 71/2019 dated 23-09-2019 and allow the appeal filed by M/s Chromachemie Laboratory Pvt Ltd.

14/1/20

(D.P.NAGENDRAKUMAR)
Member
Karnataka Appellate Authority
For Advance Ruling

(M.S. SRIKAR) 14.01.2020
Member
Karnataka Appellate Authority
For Advance Ruling

To,

The Appellant

Copy to

1. The Member (Central), Advance Ruling Authority, Karnataka.
2. The Member (State), Advance Ruling Authority, Karnataka
3. The Commissioner of Central Tax, North West Commissionerate, Bangalore
4. The Assistant Commissioner, LGSTO-075, Bangalore
5. Office folder