

TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT) / Member (FAC),
Office of the Joint Commissioner (ST), Enforcement
Inter-State Investigation Cell, Chennai-6.

ORDER No. 4/AAR/2019 DATED : 21.01.2019

GSTIN Number, if any / User id		33AAFCV4123R1ZO
Legal Name of Applicant		M/s. Vaya Life Private Limited
Registered Address/Address provided while obtaining user id		22/111, L Block, 19 th Street, Anna Nagar East, Chennai-600102
Details of Application		GST ARA-01 Application Sl. No. 43 dated : 23.08.2018
Concerned Officer		Centre: Chennai North - Annanagar Division State: The Assistant Commissioner (ST) Kilpauk Assessment Circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Trading
B	Description (in Brief)	The Applicant is involved in the business of importing and trading lunch boxes, bottles and its related accessories.
Issue/s on which advance ruling required		Classification of goods
Question(s) on which advance ruling is required		What is the Harmonized system of nomenclature (HSN) code and the applicable GST rate for VAYA TYFFN (lunch boxes) and VAYA Drynk (bottle) in terms of notification 01/2017- Central Tax (Rate) dated 28/06/2017 as amended from time to time.

Note : Any Appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling,

Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Vaya Life Private Limited, 22/111, L Block, 19th Street, Anna Nagar East, Chennai-600102 (hereinafter called the Applicant or the Company) are engaged in the in the business of importing and trading lunch boxes, bottles and its related accessories. They are registered under GST with GSTIN 33AAFCV4123R1Z0. They have preferred an application seeking Advance Ruling on “What is the Harmonized system of nomenclature (HSN) code and the applicable GST rate for VAYA TYFFN (lunch boxes) and VAYA Drynk (bottle) in terms of Notification 01/2017- Central Tax (Rate) dated 28/06/2017 as amended from time to time”

The Applicant has submitted the copy of application in Form GST ARA – 01 and also submitted the copy of Challan evidencing payment of application fees of Rs.5,000/-each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The Applicant has stated that, they are a start-up based in Chennai and delivers innovative products by redesigning products that are an integral part of routine life. They have revamped the tiffin box into a smart product with sustainable design to positively impact the daily lives of users. The products launched by the Applicant are:

i. **Vaya Tyffn:** It is a non- electrical lunch box with “copper plating” stainless steel containers designed to keep the food warm or cold for about 5-6 hours. There are 2 variants -600ml (with 2 smart sized inner containers) and 1000ml (with 3 inner containers) all equipped with handy partitions which allows flexible use of the Tyffyn. It has an oval shaped stainless body with

“VacuTherm Insulating” technology which helps to retain the heat/cold. The stainless steel cover shell is also lined with an aluminium foil for better thermal insulation and has stainless steel latches to avoid leakages. Every Vaya Tyffyn comes with a smart shoulder Vaya BagMat, which unzips into a table mat.

ii. **Vaya Drynk:** It is a water bottle/tumbler with VacuTherm insulation technology that keeps stored liquids hot for about 12 hours and cold for 18 hours. It has a stainless steel body that easily fits in bag/car holder. It has covered spout area at the top and an anti-slip coaster base. There are 2 variants in size-350 ml and 600 ml with multiple colour variants.

iii. **Accessories:** Additional Stainless steel containers with lids and partitions, Vaya Bag mat – a shoulder bag that allows Vaya products to be carried and also can be transformed into a table mat, cutlery set comprising of a spoon, fork and a spork.

2.2 The Applicant has stated that ever since the launch of the products in the year 2016, they have been clearing the product from Customs port at Chennai under CTH 7323 9920 and they have been selling the products to customers under part B of First Schedule of TNVAT act, 2006 with commodity code number of 2004 in the pre-GST regime. After the roll out of GST, the Applicant has been clearing the products to the users under the HSN 7323. However, the Customs Department has reclassified the products imported by the Applicant under CTH 9617 00 19 and this is under dispute. The Applicant states that one of the well-known principles of interpretation evolved by Supreme Court is that words of everyday use must be construed not in the scientific or technical sense but as understood in common parlance. Vaya Tyffyn is commonly known as lunch box and Vaya Drynk is a bottle/tumbler. Though both have a Vacutherm technology which only helps to keep the food at the desired technology. But it is not a vacuum container or vacuum vessel. The Applicant states that Tariff 7323 pertains to household articles of iron and steel and the products are used in household in a domestic setting by individual. In view of the above, the Applicant has sought Advance Ruling on the applicable HSN code and GST rate to their products.

3. The Authorized Representative of the Applicant was heard in the matter. They stated that their products are lunch box and bottle with vacuum insulated properties made of stainless steel and plastic. That in common parlance their

products are termed as tiffin/lunch box and bottle which is a household article for regular use under HSN 7323.; that it is not a vacuum flask under HSN9617 as it is used regularly. They stated that they get it manufactured outside India and imported. They submitted written submission, various case laws, brochures and sales invoices.

4. Documents submitted by the were examined. It is seen from the brochures that the products made of stainless steel and plastic lids. Called 'Vaya Tyffyn' and 'Vaya Drynk'. Vaya Tyffyn is a lunch box made using Vacu Therm Insulating Technology with a stainless Steel Oval Body, Leak-Proof Double-Shot Lids, High Quality Copper Finished Stainless Steel Containers, Smart Sized Compartments and Stainless Steel Latches. It is made of Food-grade Stainless Steel, BPA-free plastic lids and is available in 2 dimensions and different variants. 'Vaya Drynk' is a tumbler with a sipper/ gulper + lid. It is made of stainless steel slim body using Vacu Therm Insulations that keeps liquids upto 12 hours hot & 18 hours cold and Anti-slip Coaster base. It is available in 2 dimensions and 7 colour variants. They have Vacu therm Insulation and Vaya Tyffn can keep food warm for 5-6 hours and Vaya Drynk beverages hot for 12 hours and cold for 18 hours. It is seen from the invoices that the products are being sold as "Tumbler Sipper & Gulper", "WBM" with HSN 73239920. It is seen from the sample bill of entry of the Applicant where the Applicant is importing the products from China that the items are being described as lunch box, classifying as 73239920 in some cases and as 96170019 in others. The issue is to assess the classification of these two products and the applicable rate of tax under the provisions of GST.

5.1 In terms of explanation (iii) and (IV) to Notification No. 1/2017 - Central Tax (Rate) db. 28-06-2017, tariff heading, 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 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

5.2 In the case at hand the competing headings are 73239920 and 96170019. The relevant section notes, Chapter Notes and the notes pertaining to these

headings in Harmonised System of Nomenclature (HSN), on which Customs Tariff is based are examined as under. Chapter 7323 as per Customs Tariff Act is as follows:

7323	TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF IRON OR STEEL; IRON OR STEEL WOOL; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE, OF IRON OR STEEL			
7323 10 00	- Iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like	u	15%	-
	- Other :			
7323 91	-- Of cast iron, not enamelled :			
7323 91 10	--- Pans	u	15%	-
7323 91 90	--- Other	u	15%	-
7323 92 00	-- Of cast iron, enamelled	u	15%	-
7323 93	-- Of stainless steel :			
7323 93 10	--- Pressure cookers	u	15%	-
7323 93 90	--- Other	u	15%	-
7323 94	-- Of iron (other than cast iron) or steel, enamelled :			
7323 94 10	--- Ghamellas	u	15%	-
7323 94 20	--- Utensils	u	15%	-
7323 94 90	--- Other	u	15%	-
7323 99	-- Other :			
7323 99 10	--- Utensils of galvanised iron	u	15%	-
7323 99 20	--- Other utensils	u	15%	-
7323 99 90	--- Other	u	15%	-

HSN Explanatory notes to heading 7323 is as under:

73.23 - Table, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel.

7323_10 - Iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like

- Other

7323.91 -- of cast iron, not enamelled

7323.92 -- of cast iron, enamelled

7323.93 -- of stainless steel

732.3.94 -- of iron (other than cast iron) or steel. enamelled

7323.99 -- Other

**(A) TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES
AND PARTS THEREOF**

This group comprises a wide range of iron or steel articles, not more specifically covered by other headings of the Nomenclature, used for table, kitchen or other household purposes; it includes the same goods for use in hotels, restaurants, boarding-houses, hospitals, canteens, barracks, etc.

These articles may be cast, or of iron or steel sheet, plate, hoop, strip, wire, wire grill, wire cloth, etc., and may be manufactured by any process (moulding, forging, punching, stamping, etc.). They may be fitted with lids, handles or other parts or

accessories of other materials provided that they retain the character of iron or steel articles.

The group includes :

- (1) Articles for kitchen use such as saucepans, steamers, pressure cookers, preserving pans, stew pans, casseroles, fish kettles; basins; frying pans, roasting or baking dishes and plates; grid-irons, ovens not designed to incorporate heating elements; kettles; colanders; frying baskets; jelly or pastry moulds; water jugs; domestic milk cans; kitchen storage tins and canisters (bread bins, tea caddies, sugar tins, etc.); salad washers; kitchen type capacity measures; plate racks, funnels.
- (2) Articles for table use such as trays, dishes, plates, soup or vegetable dishes, sauce tureens; sugar basins, butter dishes; milk or cream jugs; hors-d'oeuvres dishes; coffee pots and percolators (but not including domestic percolators provided with a heat source (heading 73.21)), tea pots; cups, mugs, tumblers; egg-cups, finger bowls; bread or fruit dishes and baskets; tea pot or similar stands; tea-strainers, cruets; knife-rests; wine cooling buckets, etc., wine pouring cradles; serviette rings, table cloth clips.
- (3) Other household articles such as wash coppers and boilers; dustbins, buckets, coal scuffles and hods; watering-cans; ash-trays; hot water bottles; bottle baskets; movable boot-scrappers; stands for flat irons; baskets for laundry, fruit, vegetables, etc.; letter-boxes; clothes-hangers, shoe trees; luncheon boxes.

Chapter 9617 is as follows:

9617	VACUUM FLASKS AND OTHER VACUUM VESSELS, COMPLETE WITH CASES; PARTS THEREOF OTHER THAN GLASS INNERS			
9617 00	- Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners:			
	--- Vacuum flasks and other vacuum vessels, complete with case :			
9617 00 11	--- Vacuum flasks having a capacity not exceeding 0.75 l	kg.	10%	-
9617 00 12	--- Vacuum flasks having a capacity exceeding 0.75 l	kg.	10%	-
9617 00 13	--- Casserol and other vacuum containers	kg.	10%	-
9617 00 19	--- Other	kg.	10%	-
9617 00 90	--- Parts (other than glass inners)	kg.	10%	-

HSN Explanatory notes to heading 9617 is as under:

9617 00 - Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners: -

--- Vacuum flasks and other vacuum vessels, complete with case

:

9617 00 11 --- Vacuum flasks having a capacity not exceeding 0.75 l

9617 00 12 --- Vacuum flasks having a capacity exceeding 0.75 l

9617 00 13 --- Casserol and other vacuum containers

9617 00 19 --- Other

9617 00 90 --- Parts (other than glass inners)

96.17 - Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners.

This heading covers:

- (1) Vacuum flasks and other similar vacuum vessels provided they are complete. This group includes vacuum jars, jugs, carafes, etc., designed to keep liquids, food or other products at fairly constant temperature, for reasonable periods of time. These articles usually consist of a double walled receptacle (the inner), generally of glass, with a vacuum created between the walls, and a protective outer casing of metal, plastics or other material, sometimes covered with paper, leather, leathercloth, etc. The space between the vacuum container and the outer casing may be packed with insulating material (glass fibre, cork or felt). The heading also includes double-walled stainless steel vacuum insulated thermal flasks without a protective outer case, which perform temperature retention. In the case of vacuum flasks, the lid can often be used as a cup.
- (2) Outer cases, lids and cups of metal, plastics, etc., for vacuum flasks or other vacuum vessels.

The heading does not cover separate glass inners (heading 70.21).

General Rules for the interpretation of import tariff states

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:
(a) The heading which provides the most specific description shall be preferred to headings providing a more general description.

5.3 Tariff 7323 covers utensils which retain the character of iron or steel articles used for table, kitchen or other household purposes not more specifically covered by other headings of the Nomenclature. The Explanatory notes for heading 7323 of HSN provides that 'this group comprises a wide range of iron or steel articles, not more specifically covered by other headings of the Nomenclature'. Tariff 9617 covers Complete Vacuum flasks and other similar vacuum vessels, vacuum jars, jugs, carafes, etc. designed to keep liquids, food or other products at fairly constant

temperature for reasonable periods of time along with outer cases, lids and cups of metal, plastics, etc. for vacuum flasks or other vacuum vessels. The Explanatory notes for Heading 9617 of HSN provides that the heading covers those products which are vacuum vessels, jars capable of retaining the food/drink at a particular temperature. In the case at hand, the products Vaya Tyffn and Vaya Drynk are made using double walled vacuum designed to keep the food/drink at the desired temperature for reasonable period of time. These are utensils for household items made of stainless steel, they are more specifically covered vacuum vessels capable of retaining the food/drink at a particular temperature. Rule 3(a) of General Rules for the interpretation of import tariff states that the heading with the more specific description shall be preferred. Further, Explanatory notes for heading 7323 of HSN provides that 'this group comprises a wide range of iron or steel articles, not more specifically covered by other headings of the Nomenclature' which in this case is under heading 9617. Vaya Tyffn and Vaya Drynk are double walled stainless steel articles which perform temperature retention and are more specifically classified under Heading 96170019.

6. Having decided the classification, the next issue is the rate of tax. As per Notification No. 01/2017 -C.T.(Rate) dated 28.06.2017, the heading 9617 is covered under schedule -IV at Sl.No. 225 @ 14% CGST.

225.	9617	Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners
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And at 14% SGST as per Slno 225 Schedule IV of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.

The above notification is amended vide notification no.41/2017-C.T.(Rate) dated 14.11.2017 for CGST and G.O. (Ms) No.157, dated 14.11.2017 for SGST. The entry relating to CTH 9617 which was earlier under Schedule-IV was omitted and a new entry inserted in schedule-II at sl.No. 449B @ 9% CGST. The relevant entries are as below:

(B)in Schedule II

(cxxvii) after S. No. 449A and the entries relating thereto, the following serial numbers and the entries shall be inserted, namely: -

"449B	9617	Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners
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(D) in Schedule IV

(xv) S. Nos. 216, 217, 218, 220, 221, 222, 225, 226 and the entries relating thereto, shall be omitted;

These amendmnets were made effective from 15.11.2017.

7. In view of the foregoing, we rule as under

Ruling

1. The goods 'Vaya Tyffyn' and 'Vaya Drynk' supplied by the Applicant are classifiable under CTH 96170019
2. The goods are chargeable to 14% CGST and 14% SGST as per Sl.No. 225 Schedule IV of Notification No. 01/2017 -C.T.(Rate) dated 28.06.2017 and Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 respectively upto 14.11.2017. From 15.11.2017, they are chargeable to 9% CGST and 9% SGST as per S.No. 449B of Schedule -III of Notification No. 01/2017 -C.T.(Rate) dated 28.06.2017 as amended and Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended respectively.


Ms. Manasa Gangotri Kata, IRS
Member


Shri. S. Vijayakumar, M.Sc
Member (FAC)

To

M/s . Vaya Life Private Limited, /By SPAD/
22/111, L Block, 19th Street,
Anna Nagar East, Chennai-600102



Copy Submitted to:

1. Additional Chief Secretary/Commissioner of Commercial Taxes, II Floor,
Ezhilagam, Chepauk, Chennai-5.
2. The Principal Chief Commissioner of GST & Central Excise, 26/1,
Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Commissioner of GST & C.Ex., Chennai North,
26/1, Mahatma Gandhi Road,
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3. The Assistant Commissioner (ST),
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F-50, 10th Avenue,
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4. Master File/ Spare-2

ok

Read -



28/2/15

