

WEST BENGAL AUTHORITY FOR ADVANCE RULING  
GOODS AND SERVICES TAX  
14 Beliaghata Road, Kolkata – 700015

Name of the applicant	Vedika Exports Tea Pvt Ltd
Address	209, Karnani Estate, AJC Bose Road, Kolkata 700017
GSTIN	19AAACV8586B1Z1
Case Number	41 of 2018
Date of application	December10, 2018
ARN	AD191218000038C
Order No. & date	36/WBAAR/2018-19 dated 28/01/2019
Applicant's representative heard	Sudeshna Chatterjee, Authorized representative

1. The Applicant, stated to be a contract packer of tea bags, seeks a ruling on the classification of the services provided in way of packing of tea bags and the rate of GST thereon.

Advance Ruling is admissible under Section 97(2)(a) of the CGST/WBGST Act, 2017 (hereinafter collectively called the GST Act).

The Applicant states that the questions raised in the Application have neither been decided by nor are pending before any authority under any provision of the GST Act.

The concerned officer from the revenue has raised no objection to the admission of the application.

The application is, therefore, admitted.

2. The Application submits that the process of service undertaken by the Applicant involves assembly of materials on machine, including blended tea leaves and other inputs received from the recipient of the service.

The Applicant used to classify it as packaging service under SAC 998540 and charge GST under Sl. No. 23 (iii) of Notification No. 11/2017 – CT (Rate) dated 28/06/2017, as amended from time to time (hereinafter referred to as “the Rate Notification”).

On 01/11/2018, the Applicant received a communication from one of the recipients of the services provided, namely, M/s Hindustan Unilever Ltd (hereinafter referred to as “HUL”), informing that the service should be taxed under Sl No. 26(f) of the Rate Notification.

Sl. No. 26(f) of the Rate Notification applies to manufacturing service on physical inputs owned by others (SAC 9988) for food and food products falling under chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (hereinafter the Tariff Act).

It is, therefore, to be decided whether the Applicant's services to HUL are classifiable as packaging service or manufacturing service or both. In course of Hearing the Applicant has submitted a copy of his agreement with HUL (hereinafter referred to as “the Agreement”) w.e.f 01/01/2014, which has since been extended, and also a flow chart of the activities undertaken while providing the service to HUL.

As the ruling is sought with reference to the specific intervention as above by HUL, the discussion will be kept limited to the specific features of the Agreement.

Furthermore, the Applicant informs in course of Hearing that none of the other recipients have raised similar issues and the similar services provided to these other recipients continue to be classified as “packaging service” and taxed accordingly.

The question raised is, therefore, being answered only with respect to the service provided to HUL. The applicability of the services provided with respect to other recipients is subject to the specific nature of the contracts with them.

3. According to the Agreement the Applicant shall manufacture and/or process and pack tea bags of Taj Mahal, Lipton and Brook Bond brands at his plants at 17 Taratala Road, Kolkata – 700088 and BBT Road, Parbangla, Mahestala, Kolkata – 7000141. In terms of clause 5.3 of the Agreement, HUL shall procure, transport and deliver to the Applicant’s manufacturing units all the raw materials, packing materials and other materials required for such activities. The ownership and property in the materials so delivered shall at all times vests in and belong exclusively to HUL (clause 5.6 of the Agreement). The Applicant has no liberty to apply such materials for any purpose other than processing and packing of the products for HUL (clause 5.12 of the Agreement). HUL shall provide insurance cover against fire, spontaneous combustion, explosion and other risks, presuming the Applicant ensures reasonable precaution to safeguard HUL’s materials, work in progress and finished goods while in his custody (clause 13.2 of the Agreement)). HUL will also bear the cost of waste disposal (clause 12 of the Agreement). It is, therefore, evident that the processes undertaken are on physical inputs owned by HUL.

The flow chart of the processes undertaken at his manufacturing unit shows that the blended tea received from HUL, after quality control procedure, is passed through hoppers, magnetic grill and mesh, and ends with filling tea leaves into the tea bag pouches and stitching. The tea bags are then subjected to quality control before being packed in cartons, wrapped and put into boxes, stored and delivered to HUL after sample testing.

4. Section 2(72) of the GST Act defines manufacture as the processing of raw materials or inputs in any manner that results in the *emergence of a new product* having a distinct name, character and use. Packaging activity, on the other hand, makes the *same product* more suitable for handling, delivery, preservation, retailing etc. Filling goods in pouches is usually a packaging activity because it enables delivery of the same goods to the consumer in the right quantity and quality, depending upon the market dynamics. Consumption of the goods so packed requires they be taken out of the pouches. However, consuming tea contained in a tea bag does not require the tea leaves to be taken out of the bag. The tea bag itself is dipped in water, as the bag is porous and is filled with tea leaves. Tea bags, therefore, are distinct from tea leaves, offering a user-friendly way of making the beverage. Tea bag pouch is, therefore, not a packaging material, but an input required for manufacturing tea bag as a commercial item *separate from blended tea leaves*. It is a new product having a distinct name, character and use, and classified as such under Tariff item 0902 40 40.

It is evident, therefore, that the Applicant's service to HUL for manufacturing tea bags is service for manufacturing a product classified under Tariff item 0902 40 40, where physical inputs are owned by the recipient.

The supply is, therefore, to be classified under SAC 9988 and taxed under SI No. 26(f) of the Rate Notification.

The Applicant also provides service of packaging the manufactured tea bags in cartons, wraps them up and put them in specially designed boxes. HUL owns and provides all such packaging materials also.

These two services (service for manufacturing tea bags and the service for packaging of the manufactured tea bags) are supplied in terms of a single contract (refer to the Agreement) and at a single price (as may be ascertained from the invoices). The flow chart shows that the services are supplied as processes in a continuous assembly line, where packaging of tea bags in cartons and wrapping is ancillary to manufacturing tea bags. The tea bags, of course, cannot be delivered unless they are suitably packed.

The Applicant is, therefore, making a composite supply to HUL where the service of manufacturing tea bags from the physical inputs owned by HUL is the principal supply.

In view of the foregoing, we rule as under

### **RULING**

The Applicant makes a composite supply to Hindustan Unilever Ltd, where the service of manufacturing tea bags from the physical inputs owned by the latter is the principal supply. It is classifiable under SAC 9988 and taxable at 5% rate under SI No. 26(f) of Notification No. 11/2017 – CT (Rate) dated 28/06/2017, as amended from time to time. Applicability of this Ruling with respect to other recipients is subject to the specific nature of the contracts with them.

This Ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the GST Act.

Sd-

(SYDNEY D'SILVA)  
Member

West Bengal Authority for Advance Ruling

Sd-

(PARTHASARATHI DEY)  
Member

West Bengal Authority for Advance Ruling