

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow-**

ADVANCE RULING NO. UP ADRG - 21/2023
PRESENT:

DATED 02-3-2023

1. Shri Rajendra Kumar

Additional Commissioner, Central Goods and Service Tax
Audit Commissionerate, Lucknow

.... Member (Central Tax)

2. Shri Harilal Prajapati

Joint Commissioner, State Goods and Service TaxMember (State Tax)

1.	Name of the Applicant	M/s Pandey Traders Siyapuram, Station Road, Mainpuri, Uttar Pradesh-205001
2.	GSTIN or User ID	09FOSPP6028C1ZI
3.	Date of filing of Form GST ARA-01	27.06.2022
4.	Represented by	Mr. Amit Awasthi (Advocate), & Mr. Ashish Kumar Shukla (Advocate).
5.	Jurisdictional Authority-Centre	Range Mainpuri, Division Farrukhabad, Kanpur Commissionerate
6.	Jurisdictional Authority-State	Sector-Mainpuri, Sector-1, Range- Mainpuri, Zonw-Etawah
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes SBIN22060900417065

ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98 (4) OF THE UPGST ACT, 2017

1. M/s Rajiv Pandey is registered under GSTIN 09FOSPP6028C1ZI under trade name of M/s Pandey Traders having principal address at Siyapuram, Station Road, Mainpuri, Uttar Pradesh-205001 (hereinafter referred as "the applicant"). The applicant is engaged in mixing of scent in the raw/unmanufactured tobacco dust, procured from various traders.

2. The applicant has submitted application for Advance Ruling dated 27.06.2022 enclosing dully filled Form ARA-01 (the application form for Advance Ruling) along with annexure and attachments. The applicant in his application has sought advance ruling on following question/clarification-

1. Whether mixing of scent (mixture of various perfumes and not jarda scent) in raw unmanufactured tobacco dust by the Applicant after procuring the same from various traders, and its subsequent sale to customers on B to B and B to C basis, after ensuring packing from third party, would change the character of unmanufactured tobacco to manufactured tobacco?

2. Whether processing of unmanufactured tobacco dust by add mixing the scent (mixture of various perfumes and not jarda scent) would change the character of unmanufactured tobacco to manufactured tobacco?

3. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

4. The applicant has submitted that-

- (i) The Applicant, M/s Pandey Traders, Siyapuram, Station Road, Mainpuri 205001 (U.P.) [GSTIN No. 09FOSPP6028CIZI] is engaged in mixing of scent in the raw/unmanufactured tobacco dust, procured from various traders.
- (ii) That said unmanufactured raw tobacco dust after mixing of scent (mixture of various perfumes and not jarda scent) is being sent for packing along with packing rolls of pouch to M/s Purwar Enterprises, who with the help of pouch packing machine prepares, the Pouches of 1gm and then ensures packing of 26 pouches of 1 grams in a transparent packet, bearing no marking, whatsoever and howsoever, and return it to the Applicant. Even the Pouches being supplied for packing contains only statutory marking in terms of Prohibition of Advertisement & Regulation of Trade and Commerce, production, Supply and Distribution Act, 2003 along with marking of Rate and weight in terms of Legal Metrology Act. The said pouches also do not bear any brand and /or trade name.
- (iii) That the said product is then supplied on B to B and B to C basis from the premises of the Applicant, classifying it under GST Tariff Sub Heading 24012090, as unmanufactured tobacco, under cover of proper tax invoice and on payment of duty in accordance with law.

5. The applicant have submitted their interpretation of law as under-

- (i) That the raw unmanufactured tobacco dust which is result of screening of raw tobacco through which tobacco leaf's, it stem, and other tender parts are separated through the process drying, winnowing, crushing and separating though sieving, and the better part are used for chewing tobacco and remaining part in raw form i.e. stems, hard veins and leaves of tobacco plant are then crushed in the dust form, and the dust is also sold as such for human consumption.
- (ii) That mixing of scent (mixture of various perfumes and not jarda scent) by the Applicant in raw unmanufactured tobacco dust does not make any irreversible change and remains raw unmanufactured tobacco dust only. The Applicant to prepare a blend of raw unmanufactured tobacco dust, only add mixture scent (mixture of various perfumes and not jarda scent) only, for human consumption. Since application of scent (mixture of various perfumes and not jarda scent) on raw unmanufactured tobacco dust do not result in proven irreversible change, the raw unmanufactured tobacco dust remains raw unmanufactured tobacco dust only, as such the same cannot be equated with manufactured tobacco.

The Applicant has placed reliance is the following case laws:-

- i) Yogesh Associates v/s Commissioner of Central Excise, Surat-II reported in 2006 (195) ELT 196 (Tri.-Mum.).

ii) Shrikant Prasad v/s Commissioner of Central Excise, Calcutta-1 reported in 2000 (117) ELT 345 (Tribunal).

iii) Suresh Enterprises v/s Commissioner of Central Excise, Pune reported in 2006(203) ELT 432 (Tri. - Mumbai).

iv) Iswar Grinding Mills v/s Commissioner of C.Ex., Calcutta-1 reported in 2000 (117) ELT 743 (Tri.).

6. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. But no reply was received.

7. The applicant was granted a personal hearing on 24.02.2023 which was attended by Mr. Amit Awasthi (Advocate), & Mr. Ashish Kumar Shukla (Advocate) Authorized Representatives during which they reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

8. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

9. We have gone through the submissions made by the applicant and have examined the interpretation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) (a) of the CGST Act 2017 being a matter related to classification of goods. We therefore, admit the application for consideration on merits.

10. The Applicant, M/s Pandey Traders, Siyapuram, Station Road, Mainpuri 205001 (U.P.) is engaged in mixing of scent in the raw/unmanufactured tobacco dust, procured from various traders. They have sought clarification on following points:-

1. Whether mixing of scent (mixture of various perfumes and not jarda scent) in raw unmanufactured tobacco dust by the Applicant after procuring the same from various traders, and its subsequent sale to customers on B to B and B to C basis, after ensuring packing from third party, would change the character of unmanufactured tobacco to manufactured tobacco?

2. Whether processing of unmanufactured tobacco dust by add mixing the scent (mixture of various perfumes and not jarda scent) would change the character of unmanufactured tobacco to manufactured tobacco?

11. We have carefully examined the submissions of the applicant, and the related statutory provisions. The issue raised by the applicant is

(i) Whether mixing of scent (mixture of various perfumes and not jarda scent) in raw unmanufactured tobacco dust by the Applicant after procuring the same from various traders, and its subsequent sale to customers on B to B and B to C basis, after ensuring packing from third party, would change the character of unmanufactured tobacco to manufactured tobacco?

(ii). Whether processing of unmanufactured tobacco dust by add mixing the scent (mixture of various perfumes and not jarda scent) would change the character of unmanufactured tobacco to manufactured tobacco?

12 The applicant is a proprietary concern is engaged in mixing of scent in the raw/unmanufactured tobacco dust, procured from various traders. That said unmanufactured raw tobacco dust after mixing of scent (mixture of various perfumes and not jarda scent) is being sent for packing along with packing rolls of pouch to M/s Purwar Enterprises, who with the help of pouch packing machine prepares, the Pouches of 1gm and then ensures packing of 26 pouches of 1 gramps in a transparent packet, bearing no marking, whatsoever and howsoever, and return it to the Applicant. Even the Pouches being supplied for packing contains only statutory marking in terms of Prohibition of Advertisement & Regulation of Trade and Commerce, production, Supply and Distribution Act, 2003 along with marking of Rate and weight in terms of Legal Metrology Act. The said pouches also do not bear any brand and /or trade name. That the said product is then supplied on B to B and B to C basis from the premises of the Applicant, classifying it under GST Tariff Sub Heading 24012090, as unmanufactured tobacco, under cover of proper tax invoice and on payment of duty in accordance with law.

12.1 Under GST, the applicable rates of CGST are notified by Notification No.01/2017-C.T.(Rate) dated 28.06.2017 and in terms of explanation (iii) and (iv) to the said Notification,

(iii) "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 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

Thus for the purposes of classification under GST, the First Schedule to Customs Tariff Act is only applicable. Further the first schedule to the Customs Tariff Act, 1975, and the Rules of interpretation therein are to be followed for classifying a product, in terms of Explanation 1 and 2 to Notification No. 1/2017- Compensation Cess (Rate) dated 28.06.2017.

12.2. The Customs Tariff Classification in respect of chapter 2401 are reproduced below for reference

24.01 - Unmanufactured tobacco; tobacco refuse.

2401.10 - Tobacco, not stemmed/stripped

2401.20 - Tobacco, partly or wholly stemmed/stripped

2401.30 - Tobacco refuse

This heading covers :

(1) **Unmanufactured tobacco** in the form of whole plants or leaves in the natural state or as cured or fermented leaves, whole or stemmed/stripped, trimmed or untrimmed, broken or cut (including pieces cut to shape, but not tobacco ready for smoking).

Tobacco leaves, blended, stemmed/stripped and "cased" ("sauced" or "liquored") with a liquid of appropriate composition mainly in order to prevent mould and drying and also to preserve the flavour are also covered in this heading.

2401	UNMANUFACTURED TOBACCO; TOBACCO
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	REFUSE
2401 10	- Tobacco, not stemmed or stripped :
2401 10 10	--- Flue cured virginia tobacco
2401 10 20	--- Sun cured country (natu) tobacco
2401 10 30	--- Sun cured virginia tobacco
2401 10 40	--- Burley tobacco
2401 10 50	--- Tobacco for manufacture of biris, not stemmed
2401 10 60	--- Tobacco for manufacture of chewing tobacco
2401 10 70	--- Tobacco for manufacture of cigar and cheroot
2401 10 80	--- Tobacco for manufacture of hookah tobacco
2401 10 90	--- Other
2401 20	- Tobacco, partly or wholly stemmed or stripped :
2401 20 90	---unmanufactured tobacco; tobacco refuse - tobacco, partly or wholly stemmed or stripped : other

Explanatory Notes to HSN 2401 is given as under:

From the above, it is evident that CTH 2401 covers unmanufactured tobacco. CTH 240110 covers Tobacco, not stemmed or stripped' and CTH 240120 covers Tobacco, partly or wholly stemmed or stripped'.

As per party submission the raw unmanufactured tobacco dust which is result of screening of raw tobacco through which tobacco leaf's, it stem, and other tender parts are separated through the process drying, winnowing, crushing and separating though sieving, and the better part are used for chewing tobacco and remaining part in raw form i.e. stems, hard veins and leaves of tobacco plant are then crushed in the dust form, and the dust is also sold as such for human consumption.

After that mixing of scent (mixture of various perfumes and not jarda scent) by the party in raw unmanufactured tobacco dust does not make any irreversible change and remains raw unmanufactured tobacco dust only. It is blend of raw unmanufactured tobacco dust, only add mixture scent (mixture of various perfumes and not jarda scent) only, for human consumption. Since application of scent (mixture of various perfumes and not jarda scent) on raw unmanufactured tobacco dust do not result in proven irreversible change, the raw unmanufactured tobacco dust remains raw unmanufactured tobacco dust only, as such the same cannot be equated with manufactured tobacco. The applicant's argument for classifying the product under GST Tariff Sub Heading CTH 24012090, as unmanufactured tobacco, under cover of proper tax invoice and on payment of duty in accordance with law.

2403	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES; "HOMOGENISED" OR "RECONSTITUTED" TOBACCO; TOBACCO EXTRACTS AND ESSENCES
	- Smoking tobacco, whether or not containing tobacco substitutes in any proportion :
2403 11	-- Water pipe tobacco specified in Sub-heading Note to this Chapter:
2403 11 10	--- Hookah or gudaku tobacco
2403 11 90	-- Other
2403 19	-- Other
2403 19 10	--- Smoking mixtures for pipes and cigarettes
	--- Biris:

2403 19 21	---- Other than paper rolled biris, manufactured without the aid of machine
2403 19 29	---- Other
2403 19 90	--- Other
	- Other :
2403 91 00	-- "Homogenised" or "reconstituted" tobacco
2403 99	-- Other :
2403 99 10	--- Chewing tobacco
2403 99 20	--- Preparations containing chewing tobacco
2403 99 30	--- Jarda scented tobacco
2403 99 40	--- Snuff
2403 99 50	--- Preparations containing snuff
2403 99 60	--- Tobacco extracts and essence
2403 99 70	--- Cut-tobacco
2403 99 90	- Other

The applicant process involves two activities (i) Preparation of dust of tobacco and (ii) mixing of scent (mixture of various perfumes and not jarda scent) by the Applicant in raw unmanufactured tobacco dust.

On a fine reading of the above, it is evident that the cutting process prescribed in this note is along with the remarks 'but not tobacco ready for smoking'. This explanation of HSN clearly brings out the classification in the Customs tariff at 240120, which covers tobacco products for further manufacture and not for consumption as such as in the case of the applicant. **From the explanation given by ICAR-CTRI Central Tobacco Research Institute and Explanatory General notes to chapter 24, it is seen that only tobacco which is cured at farm level for before supply to market would fall under this classification as 'Unmanufactured tobacco'.** The perfuming that the applicant claims is by mixing scent does not get covered under this. As seen in the Explanatory General notes to chapter 24, only natural fermentation is covered. Therefore, the product of the applicant does not fall under CTH 24012090. '

12.3 CTH 2403 covers "Other manufactured tobacco and Manufactured Tobacco substitutes; "Homogenised" or "Reconstituted" Tobacco; Tobacco Extracts and Essences". CTH 24039910- covers 'Chewing Tobacco'.

Explanatory Notes to HSN 2403 is as below:

24.03 - Other manufactured tobacco and manufactured tobacco substitutes: "homogenised" or "reconstituted" tobacco: tobacco extracts and essences.

- Smoking tobacco, whether or not containing tobacco substitutes in any proportion :

2403.11 - - Water pipe tobacco specified in Subheading Note 1 to this Chapter

2403.19 - - Other

Other

2403.91 - - "Homogenised" or "reconstituted" tobacco

2403.99 - - Other

This heading covers

- (1) Smoking tobacco, whether or not containing tobacco substitutes in any proportion, for example, manufactured tobacco for use in pipes or for making cigarettes
- 2) Chewing tobacco, usually highly fermented and liquored

As per the Explanatory notes 'Chewing tobacco' falls under CTH 2403. It is seen from the information available on ICAR- CTRI Central Tobacco Research Institute website above that chewing tobacco is the tobacco which has been cured by smoking, stored and given scent treatment. This is similar to the process described by the applicant in his production process.

13. The Circular of CBEC is issued to clarify the classification of 'Unmanufactured Tobacco merely broken by beating and then sieved and packed in retail packets with or without brand names for consumption as chewing tobacco, which is commonly known in the market as Zarda'. The above issue has been taken up for discussion in North Zone Tariff-cum-General Conference of Collectors of Central Excise wherein, Tariff advice No. 118/81 dated 04-11-1981, clarifying that unmanufactured tobacco merely broken into pieces and packed in gunny bags, whether sold under a brand

and name or not, is not classifiable as manufactured chewing tobacco under old TI 4.11(5) and the acceptance of the Order of CEGAT in the case of CCE, Pune Vs. M/s Jai Kisan Tobacco Co., Pune wherein CEGAT has held that raw tobacco crushed in the form of flakes when packed into smaller packets without adding any ingredients and sold (under a brand name or not) should not be classifiable as manufactured chewing tobacco. In the case of applicant scent (mixture of various perfumes and not jarda scent) is used as additional ingredient in the process of mixing of tobacco dust with scent.

14. We find that 'Chewing tobacco' can be both 'unmanufactured' and 'Manufactured'. The question is whether the product of the applicant is 'unmanufactured' or 'manufactured'. The process undertaken by the applicant is not equivalent to that of winnowing crushing, and separating through sieving and the better part are used for chewing tobacco 'as 'unmanufactured tobacco for chewing' but is similar to the process undertaken in manufacture of 'Chewing tobacco' as acknowledged by the ICAR-CTRI in as much as the raw tobacco is processed by mixing of tobacco dust with scent (mixture of various perfumes and not jarda scent). 'Customs Tariff' which gives the classification for determination of rates of goods as per notification No. 01/2017-C.T. (Rate) do not define what is 'Manufactured tobacco' and 'Unmanufactured tobacco' and hence we need to look into the interpretation of judiciary.

15. We find that Hon'ble High Court of Madras in the case of Bell Mark tobacco company & Ors Vs Government of Tamilnadu, while answering the issues raised before them, observed (what is to be considered as 'unmanufactured chewing tobacco' and 'Manufactured chewing tobacco' when the same is not defined in the Act". The relevant portions are extracted as under:

15.1 The relevant factors to be considered at this stage are as follow:- The assessee purchases the tobacco and stores it in his licensed warehouse till it is required for being made into packets for sale. At the stage when the assessee issues the tobacco from the warehouse for being subjected to the further process before it was packed, he pays the prescribed excise duty. The learned council for the petitioner contended that even at the stage of purchase what the assessee purchased was known to the trade as chewing tobacco. It was found the maximum period during which tobacco is stored in the warehouse of the assessee is about 40 days. The learned council for the petitioners, however contended that very often the tobacco is taken out from the warehouse much earlier. During the time the tobacco is bonded in the warehouse it has to be looked after, and one of the principal items of work to be done is known as "bulking". That process consist of sprinkling leaves with a solution of jaggery water and turning over the leaves to keep them soft and pliable and to prevent drying. After the leaves are taken out of the warehouse, it is again soaked in jaggery water. Then flavouring essence are added. The leaf is shredded. Shredded tobacco is taken packed and labeled. It should be noted that even before the assessee purchased the tobacco it had been subjected to some process. The Tribunal was of the view that was not a manufacturing process, but only a process to cure

the leaf and keep it in fit condition for sale. The main process to which the tobacco is subjected at that stage is that it is soaked in jaggery water, dried in shade and subjected periodically to the process of bulking we have mentioned above.

15.2. We see no reason to differ from the Tribunal, that the process of bulking and desanding to which the tobacco was subjected before the assessee purchased it did not amount to manufacturing process. What the assessee purchased was certainly not raw tobacco in the sense that it was straight of the field. It was cured tobacco. But then clause (viii) of Section 5 takes within its scope both cured and uncured, which constitutes raw material for the manufacture of the products to which section 5(vii) applies. What however is excluded from Section 5(viii) is tobacco which has itself been subjected to a manufacturing process. Whether, if tobacco which has been subjected to a manufacturing process is again subjected to a further manufacturing process by the purchaser it will fall under Section 5(vii) does not arise for consideration in this case, and we express no opinion of ours on that question. Factually the position was that what the assessee purchased had not been subjected to any manufacturing process, and, therefore, the sale of the tobacco, no doubt known even at that stage to the trade as chewing tobacco, did not bring that sale within the scope of Section 5(vii). It was the sale of the manufactured product effected by the assessee, manufactured from the tobacco that he had purchased, that came within the scope of Section 5(vii). No doubt, soaking in jaggery water and the process of bulking were processes common both to the seller and to the assessee who purchased the tobacco. In other words, the assessee subjected the tobacco he had purchased to the same process. Had he stopped with that alone, it might be possible to contend that what he sold subsequently was not a manufactured product. Taking, however, the cumulative effect of the various processes to which the assessee subjected the tobacco before he sold it, it is clear that what was eventually sold by the assessee was a manufactured product, manufactured from the tobacco that the assessee had purchased. Soaking in Jaggery water is not the only process to be considered. The addition of flavouring essences and shredding of the tobacco should establish that what the assessee sold was a product substantially different from what he had purchased. Once again, we have to point out that the fact that this assessee purchased the tobacco as chewing tobacco did not determine the question, whether the sale of the products manufactured by him from out of that tobacco falls within the scope of Section 5(vii) or not.

15.3. As what constitutes a manufacturing process has not been defined by the Sales Tax Act itself, that expression has to be construed as it is normally understood in the English language. Even then there can be no inflexible standard of universal application. What constitutes a manufactured product will have to be decided with reference to the circumstances of the case, See *North Bengal Stores Ltd. v. Board of Revenue, Bengal* (1946) 1 STC 157, *Hiralal Jitmal v Commissioner of Sales Tax* [1957] 8 STC 325. In our opinion, the Tribunal was right in holding that the process to which the assessee subjected the tobacco he had purchased before he sold it in packets as chewing tobacco was manufacturing process, and that what was sold was a manufactured product of tobacco. We also agree with the Tribunal, and the material on record justified its other finding that the tobacco the assessee purchased had not been subjected to any manufacturing process prior to that purchase.

16. The Apex Court in the *State of Madras Vs. Bell Mark Tobacco Co* [Laws(SC)-1966- 10-4] decided on 04th October 1966 has completely agreed with the above view of the High Court that the cumulative effect of the various process to which tobacco was subjected before it was sold, amounted to a manufacturing process.

17. Further, in the case of *A.V. Pachiappa Chettiar And. Vs. The State of Madras* relied on by the appellant in para 11 of the decision, it is stated as follows:

11.....While the raw product may be capable of a particular use, "manufacture" as understood in these decision, involves the connotation of some change in the article in question. Though basically the material might remain the same, it is being adopted to

a particular use which in the original form it was not capable of; that we conceive to be the essence of manufacture..... and has held that in the factual position of that case, the resultant product is 'Unmanufactured Tobacco'. Again we see that in the said case, the tobacco taken out of the warehouses is unbundled and kept in a heap at the place where it is converted into pieces, there it is periodically sprinkled with palm jaggery water to keep it soft and wet; the tobacco so treated is taken out little by little and cut into pieces, bundled (as per Para 1) whereas in the case at hand, the process undertaken is different in that the raw material are graded and dried categorizing age wise, undergoes dipping in jaggery water, undergoes the process of stalking and semi-drying, mincing, added with natural/agricultural preservatives after storing for few hours/days and then weighed & packed.

18. We see that Customs Tariff/HSN do not define 'Unmanufactured/ manufactured tobacco' in the Section /Chapter notes specifically. 'Manufacture' under the GST law is defined under Section 2(72) as

(72) "manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly; Thus, any process on the raw material resulting in emergence of a new product with a distinct name, character and use is defined as 'manufacture' under GST. In the applicant case the raw unmanufactured tobacco dust which is result of screening of raw tobacco through which tobacco leaf's, it stem, and other tender parts are separated through the process drying, winnowing, crushing and separating through sieving, and the better part are used for chewing tobacco and remaining part in raw form i.e. stems, hard veins and leaves of tobacco plant are then crushed in the dust form, and the dust is also sold as such for human consumption. When these tobacco dust under goes process of mixing with scent(mixture of various perfumes and not jarda scent) results in new irreversible product distinct in character in the form of manufactured chewing tobacco.

Thus, it is evident that the raw material undergoes a set of processes and emerges as a distinct product which makes it marketable/consumable for the chewing needs. Therefore, the product supplied by the applicant is "Manufactured Tobacco product for Chewing". Once it is held that the product is 'Manufactured Chewing tobacco', the classification of the product is under CTH 2403 9910 which specifies 'Chewing Tobacco' under the head "2403- Other Manufactured tobacco and manufactured tobacco substitutes...."

19.. The applicant has placed reliance on the different case laws-

i) Yogesh Associates v/s Commissioner of Central Excise, Surat-II reported in 2006 (195) ELT 196 (Tri.-Mum.).

ii) Shrikant Prasad v/s Commissioner of Central Excise, Calcutta-1 reported in 2000 (117) ELT 345 (Tribunal).

iii) Suresh Enterprises v/s Commissioner of Central Excise, Pune reported in 2006(203) ELT 432 (Tri. - Mumbai).

iv) Iswar Grinding Mills v/s Commissioner of C.Ex., Calcutta-1 reported in 2000 (117) ELT 743 (Tri.).

The above case laws deals with difference of classification of same goods of two different dealers differently. In other case it was related to treatment of tobacco leaves. In the above laws it has been discussed that crushing / powdering of tobacco leaves doesn't amount to manufacture. Hence facts of the above case laws are different from applicant case. In the applicant case mixing of tobacco dust with scent(mixture of various perfumes and not jarda scent) is a cumulative process of manufacturing and resulted in different and irreversible goods i.e. manufactured chewing tobacco and classifiable under the specific heading under CTH 24039910.

In view of the above, both the members unanimously rule as under;

RULING

1. Whether mixing of scent (mixture of various perfumes and not jarda scent) in raw unmanufactured tobacco dust by the Applicant after procuring the same from various traders, and its subsequent sale to customers on B to B and B to C basis, after ensuring packing from third party, would change the character of unmanufactured tobacco to manufactured tobacco?

Answer: Answer in Affirmative

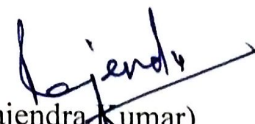
2. Whether processing of unmanufactured tobacco dust by add mixing the scent (mixture of various perfumes and not jarda scent) would change the character of unmanufactured tobacco to manufactured tobacco?

Answer- Answer in Affirmative

17. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Harilal Prajapati)

Member of Authority for Advance
Ruling


(Rajendra Kumar)

Member of Authority for Advance
Ruling

To,
M/s Pandey Traders
Siyapuram, Station Road,
Mainpuri, Uttar Pradesh-205001

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, 117/7, Sarvoday Nagar, Kanpur-208005.
4. The Deputy/Assistant Commissioner, CGST & Central Excise Division-Farrukhabad, Civil Lines, Fatehgarh, Farrukhabad-209601
5. Through the Additional Commissioner, Gr-I, Commercial Tax, ~~Etaurh Zone, Etawah~~, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khnad, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.