


GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING(APPEAL) NO. GUJ/GAAAR/APPEAL/2021/25
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/31)

Date :20.07.2021

Name and address of the appellant	:	M/s. G.B.Agro Industries, Plot No.1723, GIDC Panoli, Ankleshwar, Bharuch-394116.
GSTIN of the appellant	:	24AALFG1420F1ZX
Advance Ruling No. and Date	:	GUJ/GAAR/R/71/2020 dated 17.09.2020
Date of appeal	:	28.10.2020.
Date of Personal Hearing	:	15.04.2021.
Present for the appellant	:	Shree Avinash Poddar

The appellant M/s. G.B.Agro Industries, Plot No.1723, GIDC Panoli, Ankleshwar, Bharuch-394116 is involved in the manufacture of different type of fertilizers such as chemical fertilizers, organic fertilizers and bio-fertilizers. The appellant has submitted that they distribute their products through the network of Agro dealers and looking at the importance of market needs, they thought it appropriate to enlarge their market base keeping the potential of different areas in mind and have many Agro dealers and distributors in Maharashtra, Gujarat, Madhya Pradesh and Rajasthan. The appellant had filed an application on 15.08.2020 before the Gujarat Authority of Advance Ruling (hereinafter referred to as GAAR) seeking Advance Ruling on the classification of Organic Fertilizers, Bio-fertilizers, Nitrogenous mixture fertilizers and Mixture fertilizers. GAAR vide order No.GUJ/GAAR/R/71/2020 dated 17.09.2020 classified the aforementioned products as under:

- (1) 'Organic manure' was classified under Chapter sub-heading No.31059090 on which GST liability was 5% (2.5%SGST + 2.5%CGST).
- (2) 'Bio-fertilizers' were classified under Chapter sub-heading No.30029030 on which GST liability was 12% (6%SGST + 6%CGST).
- (3) 'Nitrogenous mixture fertilizers' were classified under Chapter sub-heading No.31029090 on which GST liability was 5% (2.5%SGST + 2.5%CGST).
- (4) 'Mixture of fertilizers' was classified under Chapter sub-heading No.31059090 on which GST liability was 5% (2.5%SGST + 2.5%CGST).

2. Aggrieved with the aforesaid ruling, the appellant has filed the present appeal on 28.10.2020 challenging the classification of Bio-fertilizers given as per the Advance Ruling of GAAR. However, the appellant has not challenged the Advance Ruling given in respect of the products Organic manure, Nitrogenous mixture fertilizers and Mixture of fertilizers. The appellant has submitted that as per the Fertilizer Control Order 1985, Bio-fertilizer means the product containing

carrier based (solid or liquid) living microorganisms which are agriculturally useful in terms of nitrogen fixation, phosphorus solubilisation or nutrient mobilization, to increase the productivity of soil or crop.

3. As per the appellant, the different types of Bio-fertilizers are Rhizobium, Azatobacter, Azospirillum, Phosphate Solubilising Bacteria, Mycorrhizal Bio-fertilizers, Potassium Mobilizing Bio-fertilizers, Acetobacter, Carrier Based Consortia and Phosphate Solubilising Fungal Bio-fertilizer. The other organic materials contained therein are Lignite/coal powder, organic manure, bone meal, amino acids, bio-fulvic, potassium humate and rock phosphate and the carrier materials are bentonite, dolomite powder and gypsum.

4. The appellant has submitted the manufacturing process of Granulated Bio-fertilizer as under:

- (i) Main parts of the production equipment are feeding hopper, granulator drum, drier drum, cooler drum, vibrating screen, coating drum and packaging machine.
- (ii) Fertilizer Production Line Main Components: The whole fertilizer machinery in the fertilizer production line includes the following machines: fertilizer feeding hopper> fertilizer crushing machine> rotary drum granulator> rotary drum drying machine> rotary drum cooling machine> rotary screening machine> coating machine > packaging.
- (iii) Bio-Fertilizer Production Line Working Flowchart: According to the compatibility and crossability, raw materials in different percentage composition are taken so different fertilizers can be manufactured as per requirement applicable for different requirements of soils and crops.
 1. Feeding Hopper: The different types of career materials are fed into hopper. Then according to the technical requirements, the raw materials in that particular composition are sent from the feeding hopper to the crushing process.
 2. Crushing Process: The lump materials should be grinded before the granulating process. But the crushing process can be left out when the material is fine enough. Then the conveying belt sends the materials to granulation drum.
 3. Granulator Drum: During granulating, there is a water pump to offer water and makes fertilizer particles forming easily. The solid fertilizer powder after granulating will rise by the rotation of the cylinder and scroll down under the effect of gravity. After several times repetition of the same rotation, fertilizer materials gradually form. Next the conveying belt sends the materials to rotary drum drying machine and cooling machine.
 4. Drier Drum: In this process, drier drum rotates and there is coal furnace to supply hot air to drying machine so as to increase the strength of granules after granulation from granulator drum. After drying, the conveyor belt sends the granules to cooling drum.
 5. Cooler Drum: In this process, the cooler drum rotates and there are draught fans to supply normal air so as to further increase the strength of granules. After cooling, the conveyor belt sends the granules to vibrating screen.
 6. Screening Process: In the process of screening, the qualified materials can be sent to packaging machine by conveyor, while others are conveyed back to crusher or granulator to be reprocessed.
 7. Coating: After granules are manufactured, they do coating of different types of Bio-fertilizers as per FCO, 1985 guidelines. In

process of coating, cylindrical drum rotates and granules are feeded and spray of required Bio-fertilizer as per requirement is done.

5. The appellant has submitted that looking to the above facts, question arises in their mind as to how their product 'Bio-fertilizers' can be classified under chapter heading 30029030 and taxable under GST@12% when Chapter heading 3002 deals with pharmaceutical products whereas the bio-fertilizers manufactured by them are used for agricultural purpose. The appellant has submitted the grounds of appeal as under:

- (i) GAAR has searched the term 'Bio Fertilizers' from Vikaspedia in which the definition is as stated under:

"In nature, there are a number of useful soil microorganisms which can help plants to absorb nutrients. Their utility can be enhanced with human intervention by selecting efficient organisms, culturing them and adding them to soil directly or through seeds. The cultured micro organisms packed in some carrier material for easy application in the field are called bio-fertilizers. Thus the critical input in Bio-fertilizers is the micro organisms."

The learned authority relied on the above definition found on Vikaspedia and has thus classified Bio-fertilizers under Chapter Heading 30029030 which covers 'cultures of micro-organisms(excluding yeasts).

- (ii) Chapter 30 is for Pharmaceutical products and sub-heading 3002 reads as under:

"Human Blood; Animal Blood prepared for therapeutic, prophylactic or diagnostic uses; Antisera, Other blood fractions and immunological products, whether or not modified or obtained by means of Biotechnological processes; vaccines, toxins, cultures of micro organisms (excluding yeasts) and similar products."

The main purpose of Bio fertilizers manufactured by the appellant is agricultural. This product is useful in terms of nitrogen fixation, phosphorus solubilisation or nutrient mobilization, to increase the productivity of soil or crop. Thus, classification of same under the chapter which relates to pharmaceutical products is not valid.

- (iii) Further, along with culture of micro organisms, the composition of bio-fertilizers includes-

- a. Organic and other materials such as organic manure, coal powder, bone meal, bio-fulvic acids, amino acids, potassium humate, rock phosphate.
- b. Carrier material such as gypsum, bentonite and dolomite.
- c. Bio-fertilizers(Micro organisms).

Appellant submits that micro organisms are used along with various other components and are not sold as micro organisms for pharmaceutical use and therefore, their classification under chapter heading 30029030 is not valid.

- (iv) The Bio-fertilizers manufactured by the appellant are a mixture of various components used by buyers to increase the productivity of soil or crop. It has no purpose as a pharmaceutical product and thus its classification under HSN 3002 is not valid and should be covered under chapter heading 3101.

- (v) Bio-fertilizers are also permitted to be used for Organic farming. The key elements of components are as follows:

Component	Key Element
Organic manure	Carbon, Nitrogen, Phosphorous and Potash.
Coal powder	Organic carbon.
Bone meal	Phosphorus, organic carbon and calcium.
Bio-fulvic	Potassium Nitrogen and Potassium.
Amino acids	Carbon, Hydrogen, Oxygen and Nitrogen.
Potassium humate	Potassium.
Rock phosphate	Phosphorous.

- (vi) The Regional Director, Regional Centre of Organic Farming published a booklet on “Organic Manures” in January, 2005 wherein it was mentioned that carbon present in soil is in form of organic manure. The components used for manufacturing of Bio fertilizers are rich in carbon content. Thus, it can be used as organic manure and therefore, can be used in agriculture. Sr.No. of Part II i.e. microbiological of Table 13 on page 42 of the published Booklet permits the use of Bio fertilizer in Organic farming. Copy of relevant extract of the booklet has been submitted. Further, the intention of the manufacturer and components used in manufacture are not directed towards manufacturing a pharmaceutical product and therefore classification under chapter sub heading 30029030 is not valid.
- (vii) There are various judicial precedents as well in this regard, wherein the said view has been upheld:
- a. Rajasthan Authority for Advance Ruling in Rhizo Organic-2018(14)GSTL.600(AAR-GST)- Bio-fertilizers or Organic fertilizer is classifiable under Tariff Heading 3101 and when it is put up in Unit container and bearing a brand name, it would be covered under Schedule-I of rate of GST on goods attracting/attract NIL rate of duty but when Bio-fertilizer is put up in Unit container and bearing a brand name, it would be taxable under GST@5%. Copy of order is submitted.
 - b. Uttarakhand Authority for Advance Ruling in M/s.Elefo Biotech Pvt.ltd. -15/2018-19: Product in question was ‘Anaerobic Microbial Inoculums(AMI)’ which is made from culturing micro organisms in cattle dung. It is used in Bio-Toilets in Railway coaches and as organic manure. AAR ruled that it is nothing but organic manure which is generally used in Bio-toilets and therefore, classified under Chapter heading 3101 of the GST Tariff and accordingly attracts GST@5%. Copy of order is submitted.
- (viii) As per General Industry Practice and as per ikhedut.gujarat.gov.in, companies like GSFC Agrotech Limited, Agriland Biotech limited and Bharat Biogas Energy limited are also dealing in Bio-fertilizers under Chapter heading 3101 at applicable GST @5%, copy of which has been submitted.

6. The appellant vide additional submission dated 30.04.2021 has submitted as under:

- (i) the composition of the inputs in their product 'Bio-fertilizer' is as under:

Sr.No.	Raw material	Percentage
1.	Organic manure	50%
2.	Lignite/Coal powder	5%
3.	Bio-Fulvic	2%
4.	Potassium Humate	1%
5.	Rock Phosphate Mineral	5%
6.	Bio Culture	2%
7.	Ball Clay Mineral Powder	30%
8.	Gypsum(Carrier Material)	15%
9.	Dolomite Mineral(Carrier Material)	5%
	Total input	115%
	Normal wastage	15%
	Output i.e. Bio-fertilizers	100%

The appellant has stated that from the total input of 115%, normally 15% is waste, and therefore usually for 1 quantity of output, 115% raw materials are used. The appellant has also submitted that the main ingredient in the output is organic manure, the main source of which is animal waste. They have also submitted that they use organic manure as main ingredient because their intention is to sell the Bio-fertilizers to the agriculturists for agricultural purpose only.

- (ii) The appellant has relied on the Advance Rulings of (a)Rajasthan Authority for Advance Ruling in Rhizo Organic-2018(14)GSTL.600(AAR-GST) and (b)Uttarakhand Authority for Advance Ruling in M/s. Elefo Biotech Pvt. Ltd. -15/2018-19 to support their contention stating their final products are sold for agricultural purpose only and therefore the above rulings support their contention and therefore bio-fertilizers will be covered under Chapter Heading 3101.
- (iii) The manufacturing and coating process is done on above mentioned raw materials in accordance with Fertilizers Control order, 1985 and depending on the kind of final output, the composition varies. However, organic manure is always the main ingredient. The different types of bio-fertilizers that can be manufactured are Phosphate Solubilising Bacteria, Potassium Mobilizing Bio-fertilizers Rhizobium, Azatobacter, Azospirillum, Myccorhizal Bio-fertilizers, Zinc solubilising Bio-fertilizers, Acetobacter, Carrier Based Consortia, Phosphate Solubilising Fungal Bio-fertilizer and Liquid Consortia. The appellant has submitted that presently, they are producing Phosphate Solubilising Bacteria and Potassium mobilising Bio-fertilizers and the rest of the products can be manufactured as and when there is demand in the market and due to it's limited usage purpose i.e. agriculture use, end consumers are agriculturists.
- (iv) The Bio-fertilizers are manufactured as per Fertilizer Control Order(FCO), 1985 guidelines and the objective and aim of the FCO is to ensure adequate availability of right quality of fertilizers at right time and at right price to farmer. Part-A of Schedule-III of the FCO deals with the specifications of the Bio-fertilizers i.e. specification of

contents and these specifications are strictly followed by the appellant. Relevant extract of FCO i.e. Page 177 to 182 has been attached.

- (v) As per FCO, it is mandatory condition to hold a license which permits manufacture and sale of the product as bio-fertilizers, that the appellant has obtained the license from the Deputy Director of Agriculture(Ext.), Bharuch and the products under question are listed as Bio-fertilisers in the license(copy of same submitted). Also, dealer who purchases Bio-fertilizer from appellant are also required to hold a License in order to sell the product to farmers as Bio-fertilizers. Copies of licenses held by few purchasers is also submitted.
- (vi) The aim and objective of issuing FCO is welfare of farmers and as appellant is following the specifications given in the FCO, it is clear that they are manufacturing a product intended to be used by the farmers. Further, the dealers who buy the Bio-fertilizers from the appellant also hold a license for sale of Bio-fertilizers and therefore it can be said that the goods are manufactured with intention of use for agriculture only.
- (vii) In order to substantiate that the products manufactured by them are for agricultural use only, the appellant have submitted a Tax Invoice of sale of Bio-fertilizers to one of the Dealers wherein Point No.5 in Declaration given on Tax Invoice clearly states 'The above products are for agriculture use only'.
- (viii) The appellant has stated that 'For Agricultural Use only' is specifically mentioned on the packaging or containers of the Bio-fertilizers. Copy of Packaging of Bio-fertilizers is also submitted.

7. The appellant has concluded his submission by stating that the Bio-fertilizers manufactured by them are intended to be sold to farmers for Agricultural use only and thus should be classified under chapter heading 3101 i.e. All goods i.e. animal or vegetable fertilizers or organic fertilizers put up in unit containers and bearing a brand name.

FINDINGS :-

8. We have considered the submissions made by the appellant in the appeal filed by them, their contentions during the course of personal hearing as well as evidences available on record. We have also gone through the Ruling given by the GAAR.

9. The Advance Ruling was sought for by the appellant for appropriate classification and applicable rate of Goods and Services Tax for their products Organic Fertilizers, Bio-fertilizers, Nitrogenous mixture fertilizers and Mixture fertilizers.'. GAAR vide Advance Ruling No.GUJ/GAAR/R/71/2020 dated 17.09.2020 ruled that **(i)** 'Organic manure' was classified under Chapter sub-heading No.31059090 on which GST liability was 5% (2.5%SGST + 2.5%CGST). **(ii)** 'Bio-fertilizers' were classified under Chapter sub-heading No.30029030 on which GST liability was 12% (6%SGST + 6%CGST). **(iii)** 'Nitrogenous mixture fertilizers' were classified under Chapter sub-heading No.31029090 on which GST liability was 5% (2.5%SGST + 2.5%CGST). **(iv)** 'Mixture of fertilizers' was

classified under Chapter sub-heading No.31059090 on which GST liability was 5% (2.5%SGST + 2.5%CGST). The appellant has filed the present appeal challenging the classification of Biofertilizers as per the aforementioned Advance Ruling of GAAR but have not challenged the Advance Ruling given in respect of the products Organic manure, Nitrogenous mixture fertilizers and Mixture of fertilizers. Therefore, the issue involved in this case is limited to the proper classification of the product 'Biofertilizer' and the applicable rate of Goods and Services Tax on the said product.

10. The appellant has submitted that their product 'Bio-fertilizers are classifiable under Chapter Heading 3101 and stated that it is used for agriculture purpose and helps in increasing the productivity of the soil or crop. The appellant has also contended that the Advance Ruling Authority has relied on the definition of 'Bio-fertilizer' as given in Vikaspedia and based on this definition, had classified their aforementioned product under Chapter Heading 30029030. So the main issue to be decided is whether the product 'Bio-fertilizer', manufactured and supplied by the appellant falls under Chapter Heading 3101 or 3002 or some other Chapter heading under the Customs Tariff Act, 1975(51 of 1975).

11. To begin with, a reference is required to be made to the definitions of biofertilizers. Definition of Bio-fertilizers as per Wikipedia and Vikaspedia are as under:

- *As per Wikipedia, biofertilisers are defined as a substance which contains living micro-organisms which, when applied to seeds, plant surfaces, or soil, colonize the rhizosphere or the interior of the plant and promotes growth by increasing the supply or availability of primary nutrients to the host plant.*
- *Vikaspedia defines biofertilisers as under: In nature, there are a number of useful soil micro organisms which can help plants to absorb nutrients. Their utility can be enhanced with human intervention by selecting efficient organisms, culturing them and adding them to soil directly or through seeds. The cultured micro organisms packed in some carrier material for easy application in the field are called bio-fertilisers. Thus the critical input in Biofertilisers is the microorganisms.*

12. The appellant has submitted that as per the Fertilizer Control Order 1985, Bio-Fertilizer means the product containing carrier based (solid or liquid) living microorganisms which are agriculturally useful in terms of nitrogen fixation, phosphorus solubilisation or nutrient mobilization, to increase the productivity of soil or crop.

13. As per Vikaspedia, benefits/uses of Bio-fertilisers are as under:

Bio-fertilisers are living microorganisms of bacterial, fungal and algal origin. Their mode of action differs and can be applied alone or in combination.

- *Biofertilizers fix atmospheric nitrogen in the soil and root nodules of legume crops and make it available to the plant.*
- *They solubilise the insoluble forms of phosphates like tricalcium, iron and aluminium phosphates into available forms.*
- *They scavenge phosphate from soil layers.*
- *They produce hormones and anti metabolites which promote root growth.*
- *They decompose organic matter and help in mineralization in soil.*
- *When applied to seed or soil, biofertilizers increase the availability of nutrients and improve the yield by 10 to 25% without adversely affecting the soil and environment.*

14. As per the submission of the appellant, the Bio-fertilizers manufactured and supplied by them are a mixture of various components used by buyers to increase the productivity of soil or crop, that it has no purpose as a pharmaceutical product and thus its classification under HSN 3002 is not valid and should be covered under chapter heading 3101. The manufacturing process of the 'Bio-fertilizers' manufactured by them is described at para-4 above. The appellant has also stated that the main purpose of Bio fertilizers manufactured by them is agricultural and is useful in terms of nitrogen fixation, phosphorus solubilisation or nutrient mobilization, to increase the productivity of soil or crop; that the micro organisms are used along with various other components and are not sold as micro organisms for pharmaceutical use and therefore, their classification under chapter heading 30029030 is not valid. The appellant has further submitted that the different types of bio-fertilizers that can be manufactured are Phosphate Solubilising Bacteria, Potassium Mobilizing Bio-fertilizers Rhizobium, Azatobacter, Azospirillum, Myccorhizal Bio-fertilizers, Zinc solubilising Bio-fertilizers, Acetobacter, Carrier Based Consortia, Phosphate Solubilising Fungal Bio-fertilizer and Liquid Consortia; that presently, they are producing Phosphate Solubilising Bacteria and Potassium mobilising Bio-fertilizers and the rest of the products can be manufactured as and when there is demand in the market and due to its limited usage purpose i.e. agriculture use, end consumers are agriculturists. The appellant has submitted the composition of the inputs in their product 'Bio-fertilizer' as under:

Sr.No.	Raw material	Percentage
1.	Organic manure	50%
2.	Lignite/Coal powder	5%
3.	Bio-Fulvic	2%
4.	Potassium Humate	1%
5.	Rock Phosphate Mineral	5%
6.	Bio Culture	2%
7.	Ball Clay Mineral Powder	30%
8.	Gypsum(Carrier Material)	15%
9.	Dolomite Mineral(Carrier Material)	5%
	Total input	115%
	Normal wastage	15%
	Output i.e. Bio-fertilizers	100%

15. The appellant has also stated that from the total input of 115%, normally 15% is waste, and therefore usually for 1 quantity of output, 115% raw materials are used. The appellant has also submitted that the main ingredient in the output is organic manure, the main source of which is animal waste. They have also submitted that they use organic manure as main ingredient because their intention is to sell the Bio-fertilizers to the agriculturists for agricultural purpose only. It is also observed that the aforementioned composition of inputs (percentage wise) for 'Bio-fertilizers' (which they have submitted now) was never brought to the notice of the Advance Ruling Authorities by the appellant but has been submitted only after the hearing of the appeal filed by them, which was held on 15.04.2021.

16. From the above submission of the appellant, especially the composition of the inputs contained in their products i.e. 'Bio-fertilizers' and comparing the same to the definitions of 'Bio-fertilizers' mentioned in paras-11 to 13 above, it does not appear to meet the criteria of 'bio-fertilizer' particularly because 'Organic manure' (main source of which is animal waste) is a major input constituting 50% of the mixture whereas Bio culture contained therein is only 2%. Further, the appellant themselves have submitted that they are presently

manufacturing only two types of 'Bio-fertilizers' namely Phosphate Solubilising Bacteria and Potassium mobilising Bio-fertilizers. Hence, it can be presumed that the composition of inputs submitted by them pertains to these two products only and therefore the classification to be decided is in respect of these two products only. The appellant has also submitted that the main source of 'Organic manure' is animal waste and that the key elements contained therein are carbon, nitrogen, phosphorus and potash. We, therefore, find, that in the instant case, the aforementioned two products i.e. Phosphate Solubilising Bacteria and Potassium mobilising Bio-fertilizers contains a mixture of various inputs in which 'Organic manure' is the main input since it constitutes 50% of the final product. Therefore, in order to clarify the matter, we will be required to refer to the General Rules for the interpretation of Customs Tariff which reads as under:

Classification of goods in this Schedule shall be governed by the following principles:

The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided subheadings or Notes do not otherwise require, according to the following provisions:

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished article provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

“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. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as the criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.”

17. Since the aforementioned two products i.e. Phosphate Solubilising Bacteria and Potassium mobilising Bio-fertilizers contains a mixture of various inputs, reference will be required to be made to Rule 3(b) of the General Rules for the interpretation of Customs Tariff, in order to sort out the matter. As per Rule 3(b) above, mixtures, composite goods consisting of different materials or

made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as the criterion is applicable. Since the two products, as discussed earlier are mixtures that constitute of 50% organic manures, it can be construed that organic manure is the main component in the mixture and therefore, it is 'Organic manure' which gives the mixture its essential character. Therefore, in light of Rule 3(b) of the General Rules for the interpretation of Customs Tariff, the aforementioned products of the appellant would be rightly classifiable under the Chapter Sub-heading applicable to 'Organic manure' only.

18. We also find that the impugned order of Advance Ruling of GAAR has already decided the classification of 'Organic manure' since the appellant had sought Advance Ruling in respect of the classification of their product 'Organic manure' vide their application for Advance Ruling dated 12.03.2019(revised on 15.08.2020). It therefore follows, that the contents of their product 'Organic manure' (for which they had sought classification) as well as that of the input 'Organic manure' (which forms a major constituent of the products i.e. Phosphate Solubilising Bacteria and Potassium mobilizing Biofertilizer), will obviously be the same. We also find that the Gujarat Authority for Advance Ruling(GAAR) vide the impugned order dated 17.09.2020 had classified the product 'Organic manure' of the appellant under Chapter sub-heading No.31059090 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975) which was liable to GST at 5% in terms of Sl.No.182D of Schedule-I of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 as amended on the following grounds:

- (i) Chapter heading 3101 00 which reads as '*Animal or vegetable fertilisers, whether or not mixed together or chemically treated; fertilisers produced by the mixing or chemical treatment of animal or vegetable products*' clearly indicates that it covers fertilizers produced by mixing or chemical treatment of animal or vegetable products. The ingredients used for manufacture of 'organic fertilizers' as per the applicant are poultry manure, organic ash, compost, cow dung, bone meal, vegetable waste, sulphur powder(mineral), rock phosphate(mineral) and Bentonite(Mineral), Gypsum(for neutralisation), bioculture amino acid, bio-fulvic and potassium humate. Of the said ingredients, poultry manure, organic ash, compost, cow dung, bone meal are within the scope of 'animal or vegetable products' but sulphur powder, rock phosphate, bentonite and gypsum are admittedly minerals whereas potassium humate is a chemically synthesised element which is extracted from brown coal and the process involves alkaline reaction. Bio-fulvic is also commercially known as Bio Potassium fulvate.
- (ii) The above indicates that the ingredients viz. Sulphur powder, rock phosphate, bentonite, gypsum, potassium humate and bio-fulvic are certainly not covered under the Animal or vegetable products. For the product to be covered under Chapter head 3101, the product should necessarily be either direct animal or vegetable fertilizers such as manure, whether mixed together and chemically treated or otherwise and those obtained by mixing or chemical treatment of animal or vegetable products. The said interpretation finds support in the technical definition of the term 'organic fertilizer' which reads as

'Organic fertilizers are fertilizers derived from animal matter, animal excreta(manure), human excreta and vegetable matter (e.g. compost and crop residues). Naturally occurring organic fertilizers include animal wastes from

meat processing, peat, manure, slurry and guano. In contrast, the majority of fertilizers used in commercial farming are extracted from minerals (e.g. phosphate rock) or produced industrially (e.g. ammonia).

- (iii) The definition in the trade parlance also clearly indicates that Organic Fertilisers are solely obtained from animal or vegetable matter and no other ingredients are present in them. In the instant case, the composition of the 'Organic Fertilizers' as provided by the applicant reveals that it is a mixture of various elements and as such the same should be examined in light of the fact whether the mixture consists of animal or vegetable products or otherwise. The above analysis of the individual ingredients of the product claimed to be 'organic fertilizers' indicates that the same is derived from a mixture of animal products, vegetable products, minerals and chemically synthesised molecules i.e. the product is not exclusively a mixture of animal or vegetable products and hence cannot be covered under the Chapter Heading 3101 of the first schedule to the Customs Tariff Act.
- (iv) The composition of the product contains Amino Acids(Bio-culture amino acids) and the key elements of an amino acid are Carbon(C), Hydrogen(H), Oxygen(O) and Nitrogen(N), although other elements are found in the side chains of certain amino acids, hence presence of nitrogen is visible. Further, it contained potassium humate, hence presence of potassium is also visible. Rock phosphate which is also one of the components of the product is a non-detrital sedimentary rock that contains high amounts of phosphate minerals, hence product also contains phosphate elements. In addition, the product also contains minerals viz. sulphur powder and bentonite. Thus, the product is a mixture of animal or vegetable products, minerals, nitrogen, phosphate and potassium and hence merits classification under Chapter sub-heading 31059090 which reads as under:

3105 MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS NITROGEN, PHOSPHORUS AND POTASSIUM; OTHER FERTILISERS; GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF A GROSS WEIGHT NOT EXCEEDING 10 KG

3105 10 00 - Goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg.

3105 20 00 - Mineral or chemical fertilisers containing the three fertilising elements nitrogen,phosphorus and potassium

3105 30 00 - Diammonium hydrogen ortho phosphate(diammonium phosphate)

3105 40 00 - Ammonium dihydrogen ortho phosphate (monoammonium phosphate) and mixtures thereof with diammonium hydrogen orthophosphate (diammonium phosphate)

- Other mineral or chemical fertilisers containing thetwo fertilising elements nitrogen and phosphorus :

3105 51 00 -- Containing nitrates and phosphates -

3105 59 00 -- Other -

3105 60 00 - Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium

3105 90 - Other :

3105 90 10 --- Mineral or chemical fertilisers containing two fertilising elements namely nitrogen and potassium

3105 90 90 --- Other

- (v) On going through the entry of the above product in the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017(as amended vide Notification No.18/2017-Central Tax(Rate) dated 30.06.2017), it is found that the same appears at Entry No.182D of Schedule-I(on which effective rate of GST is 5%(2.5% SGST + 2.5% CGST) which reads as under:

S.No.	Chapter/Heading /Sub-heading/ Tariff item	Description of Goods.
182D	3105	<i>Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, other than those which are clearly not to be used as fertilizers.</i>

19. The appellant has not challenged or appealed against the aforementioned Advance Ruling given by the GAAR in the impugned order in respect of their product 'Organic manure'(classified under Chapter Heading 31059090). It can therefore be concluded that the appellant has accepted the classification of their product 'Organic manure' as given in the impugned order of Advance Ruling. Hence we decide and conclude that the aforementioned two products namely Phosphate Solubilising Bacteria and Potassium mobilising Bio-fertilizers manufactured and supplied by the appellant are classifiable under Chapter sub-heading No.31059090 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975) and liable to GST at 5% in terms of Sl.No.182D of Schedule-I of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time). We would also like to emphasize here that the classification of the aforementioned products is entirely based on the composition of inputs as given by the appellant and any alteration/change in the composition of the inputs would also result in alteration of the classification of the aforementioned products.

20. We also find that the appellant has relied on the order bearing No.RAJ/AAR/2018-19/04 dated 16.06.2018 of the Rajasthan Advance Ruling Authority in the case of Rhizo Organic as well as Ruling No.18/2018-19 dated 06.02.2019 issued by the Uttarakhand Advance Ruling Authority in the case of Elefo Biotech pvt.ltd. in support of their contention that 'Bio-fertilizers' are classifiable under Chapter Heading 3101. In this regard, we have to emphasize here that decisions of Advance Ruling Authorities cannot be relied upon by the appellant, since, as per the provisions of Section 103 of the CGST Act, 2017, the Advance Ruling pronounced by the Advance Ruling Authority or the Appellate Authority shall be binding only on the applicant who had sought it in respect of any matter referred to in sub-section(2) of Section 97 for Advance Ruling and the concerned officer or the jurisdictional officer in respect of the applicant.

21. In view of the foregoing, we modify the Advance Ruling No.GUJ/GAAR/R/71/2020 dated 17.09.2020 issued by the GAAR in respect of 'Bio-fertilizers', by holding that the two products namely 'Phosphate Solubilising Bacteria' and 'Potassium mobilising Bio-fertilizers' manufactured and supplied by the appellant M/s. G.B.Agro Industries, Bharuch are classifiable under Chapter sub-heading No.31059090 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975) and liable to GST at 5% in terms of Sl.No.182D of Schedule-I of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time) for the reasons discussed hereinabove. Also, the classification of the aforementioned products is entirely based on the composition of inputs as

given by the appellant and any alteration/change in the composition of the inputs would also result in alteration of the classification of the aforementioned products.

(J. P. Gupta)

Member

(Seema Arora)

Member

Place : Ahmedabad

Date :20.07.2021.