

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 06/ 2023
Dated: 23.01.2023**

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. Kiran Reddy T
Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. Prakash and Company, APMC Yard, Mahalingapur, Bagalkote-587312
2.	GSTIN or User ID	29AAGFP5332G1Z6
3.	Date of filing of Form GST ARA-01	20.09.2022
4.	Represented by	Sri V.R. Desai Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Belagavi GST Commissionerate, Belagavi Division-Bijapur Division Range- Bijapur D Range
6.	Jurisdictional Authority - State	ACCT, LGSTO-430, Jamkhandi
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger Reference No. DC2909220020285 Dated 07.09.2022

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

M/s. Prakash and Company, APMC Yard, Mahalingapur, Bagalkote-587312 (hereinafter referred to as 'The applicant'), having GSTIN 29AAGFP5332G1Z6 have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a Partnership firm registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017



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(hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The applicant is a selling agent of jaggery.

3. The applicant has sought advance ruling in respect of the following questions:

- i. *Whether all types of jaggery are covered under the Notification No.6/2022-Central Tax (Rate) dated 13-07-2022?*
- ii. *If yes, what is the rate of tax?*
- iii. *If No, which type of jaggery does not fall under Notification No.6/2022-Central Tax (Rate) dated 13-07-2022 and are exempted from tax?*

4. **Admissibility of the application:** The question is about the “Applicability of a notification issued under the provisions of this Act” and “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2) (b) and 97(2) (e) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that they deal in jaggery which is exempted from GST as per Sl.No.94 of Notification No.2/2017-Central Tax (Rate), dated 28.06.2017. They have also stated that as per Notification No.6/2022-Central Tax (Rate), dated 13-07-2022, jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled has been inserted in to Schedule I-2.5% at Sl.No.91A under the HSN code 1701 and 1702.

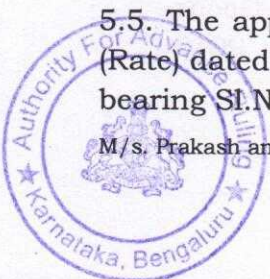
5.2 The applicant states that they deal in jaggery which is sold in wrapped loose gunny sheets stitched with thread and weighing in 3 different sizes i.e., 5 Kgs, 10Kgs and 30 Kgs.

5.3 The applicant states that agriculturist manufacture the jaggery mainly with sugar cane juice by mixing necessary chemicals in minor portion. The sugarcane juice is boiled in big pot and thereafter, the boiled sugar cane juice will be put in 5kg, 10kg and 30kg pots till it becomes cold and after cooling process is over, the sugar cane juice will be in the form of lump (jaggery) of either 5Kg, 10Kg or 30Kg. The weight of none of the lumps are similar to each other. It may either more or less by some grams i.e., weight is not uniform though the sizes are same.

5.4. The applicant states that the jaggery lumps are not packed in any content. But the lumps are either wrapped in Jute cloth or plastic paper for easy transport and to avoid unnecessary wastage in transportation. The transported jaggery will be brought to APMC Yard wherein it will be examined by APMC Authority. In APMC Yard it will be handed over to the godown of selling commission agent and after bidding, the goods will be given to purchaser and there after weighment is made before the purchaser and for highest bidder the goods will be handed over.

5.5. The applicant states that the jaggery prior to notificationNo.06/2022 Central Tax (Rate) dated 13-07-2022 was totally exempt from tax under Section 11(1) of the GST Act bearing Sl.No.94 having HSN Code 1701 or 1702.

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5.6 The applicant submits that as per Notification No.6/2022 Central Tax (Rate) dated 13th July 2022, jaggery of all types including cane jaggery (gur), palmyra jaggery, pre-packaged and labelled; khandsari sugar, pre-packaged and labelled; has been made taxable at the rate of 2.5% and 2.5% respectfully under CGST and SGST which is reproduced as under:

In the Notification at Point No. B in Schedule I-2.5% at para ix-after Sl.No.91 and entries relates thereto, following Sl.No. and entries shall be inserted, namely,

"91A	1701 or 1702	Jaggery of all types including cane jaggery (gur), palmyra jaggery, pre-packaged and labelled; khandsari Sugar, pre-packaged and labelled";
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5.7 The applicant further submits that at para G (ii) of the Notification mentioned above, the expression 'pre-packaged commodity' means a 'pre-packaged commodity' as defined in clause (1) of Section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.'

Pre-packaged commodity as defined in the Legal Metrology Act 2009, Section 2(1).

"pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity,

Label as defined Section 2(f) "Label" means any written, marked, stamped, printed or graphic matter affixed to, or appearing upon any pre-packaged commodity;

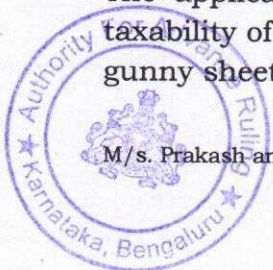
5.8 The applicant has stated that as per the above provision of Metrology Act 2009, none of the provisions are applicable to Jaggery in which they are dealing. The applicant has stated that the jaggery in which they are dealing is neither pre-packaged nor weighed nor labelled and the weight of each lump is nor similar, only the sizes are same, and hence they are not coming under the notification No.6/2022 Central Tax (Rate) dated 13th July 2022 for payment of tax.

6. Applicant's Interpretation of Law:

6.1 The applicant submits that the wording of the Notification is as under,

"Jaggery of all types including cane jaggery (gur), palmyra jaggery, pre-packaged and labelled; khandsari Sugar, pre-packaged and labelled"

The applicant has stated that bare reading of the notification does not clarify the ~~taxability~~ of the jaggery which is sold in APMC Yards and wrapped and stitched in loose gunny sheets.



6.2 The applicant is of the view that jaggery which is sold as mentioned is exempt and only such jaggery which is pre-packed and labelled i.e., branded is taxable.

PERSONAL HEARING / PROCEEDINGS HELD ON 10.11.2022

7. Shri V.R. Desai, Advocate and Duly Authorised Representative appeared for personal hearing proceedings held on 10.11.2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

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

9. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by their authorized representative and also their submissions made during the time of hearing.

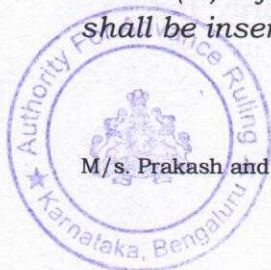
10. The Applicant states that they are selling commission agents of Jaggery; that the jaggery is loosely wrapped and stitched in gunny bags or loosely wrapped in plastic covers for easy transport and to avoid unnecessary wastage in transportation, but not pre packed or labeled.

11. The Applicant states that agriculturist manufacture the jaggery mainly with sugar cane juice by mixing necessary chemicals in minor portion; that the boiled sugar cane juice will be put in approximately 5kg, 10kg and 30kg pots and it will be in the form of lump (jaggery). The weight of none of the lumps are similar to each other; that the jaggery will be brought to APMC Yard wherein it will be examined by APMC Authority. In APMC Yard it will be handed over to the godown of selling commission agent and after bidding, the goods will be given to purchaser and there after weighment is made before the purchaser.

12. Now we proceed to examine the questions one by one. The Applicant wants to know *whether all types of jaggery are covered under the Notification No.6/2022-Central Tax (Rate) dated 13-07-2022*. For this we invite reference to the Notification No.6/2022-Central Tax (Rate) dated 13-07-2022 and the same is reproduced below:

B. in Schedule I -2.5%,

(ix) after S. No. 91 and the entries relating thereto, following S. No. and entries shall be inserted, namely: -



M/s. Prakash and Company

S.No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
91A	1701 or 1702	Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled”;

G. after the Schedule VII, in the Explanation, for clause (ii) and the entries relating thereto, the following clause shall be substituted, namely:-

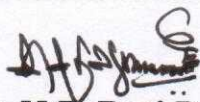
‘(ii) The expression ‘pre-packaged and labelled’ means a ‘pre-packaged commodity’ as defined in clause (l) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.’

12.1. The entry 91A says Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labeled is exigible to CGST at 2.5%. which means all types of jaggery which are pre-packaged and labeled is exigible to CGST at 2.5%.


13. In view of the foregoing, we pass the following

RULING

- i. All types of jaggery, pre-packaged and labeled are covered under S. No. 91A of Notification No. 1/2017 Central Tax (Rate) dated: 28.06.2017 as amended vide Notification No.6/2022 dated 13-07-2022.
- ii. All types of jaggery, pre-packaged and labeled are exigible to GST at 5% (CGST at 2.5% and SGST at 2.5%).
- iii. The question (i) above is answered in positive and hence this question is redundant.


(Dr. M.P. Ravi Prasad)

Member
MEMBER


(Kiran Reddy T)
Member

MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

Karnataka Advance Ruling Authority,
Bengaluru - 560 009

Date: 23.01.2023

M/s. Prakash and Company



To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Taxes, Belagavi GST Commissionerate, Belagavi Division-Bijapur Division Range-Bijapur D Range.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-430, Jamkhandi.
5. Office Folder.



M/s. Prakash and Company