



**RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX**

**KAR BHAWAN, AMBEDKAR CIRCLE, NEAR
RAJASTHAN HIGH COURT
JAIPUR – 302005 (RAJASTHAN)**



ADVANCE RULING NO. RAJ/AAR/2020-21/01

J.P.Meena Additional Commissioner	:	Member (Central Tax)
Hemant Jain Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	Sunil Kumar Gehlot (Sunil Kumar & Co.), Water Works Road, Sojat City, District-Pali, Rajasthan 306104
GSTIN of the applicant	:	08AAUHS7425M1Z6
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	(a)Classification of any goods or services or both;
Date of Personal Hearing	:	04.03.2020
Present for the applicant	:	Sh. Pardeep Jain (Authorised Representative)
Date of Ruling	:	06.05.2020

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

- At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST 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 RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

- The issue raised by M/s Sunil Kumar Gehlot (Sunil Kumar & Co.), Water Works Road, Sojat City, District-Pali, Rajasthan 306104 (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under: -

(a) Classification of any goods or services or both;

- Further, the applicant being a registered person (GSTIN is 08AAUHS7425M1Z6 as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

1. **SUBMISSION AND INTERPRETATION OF THE APPLICANT:**

- The applicant is engaged in manufacture of hair dye powder in Sojat city and is having GST registration number 08AAUHS7425M1Z6. The applicant intends to manufacture mehendi/henna powder in future and so wish to seek clarification on the classification and rate of GST applicable on the mehendi/henna powder.
- The classification dispute as regards mehendi/henna powder was prevalent since Central Excise Laws and the confusion still persists in GST regime. The amendments made in the notifications specifying rate of GST has created dispute as regards classification of henna powder in the GST regime.

- Therefore, the present application for advance ruling is being filed to confirm the classification of henna powder and the rate of GST applicable on it.
- The present application for advance ruling has been filed to confirm the classification of henna powder and the rate of GST applicable thereon. In order to arrive at perfect conclusion, it is pertinent to make reference to various aspects that aid in the classification of their product henna powder under GST regime.
- At the outset, it is worth noting that while filing application for registration under GST Laws, the list of goods mentions the Chapter 14 for henna powder. The HSN code no. 14041019 specifically mentions "Henna Powder" and so the applicant has mentioned the classification of their product henna powder under chapter 14 and accordingly, the rate of GST applicable is 5%. The applicant submits that when the GST portal itself specifies the HSN code for henna powder as 14041019, there is no doubt that the said product is covered under chapter 33. Therefore, the classification of the product mehandi/henna powder should be confirmed under HSN code 14041019. The screenshot of the registration application is enclosed.
- In continuation to the above, reference may be made to amendment made vide insertion of serial no. 78A by Notification No. 06/2018-Central Tax (Rate) dated 25.01.2018 which amended the principal notification no. 01/2017-Central Tax (Rate) dated 28.06.2017 which reads as follows: -

78A	1404 or 3305	Mehandi paste in cones
-----	--------------	------------------------

- The applicant submits that after the above cited amendment, it is being interpreted that the above amendment is specific for Mehandi paste in cones and cannot be considered with reference to mehandi powder. In this regard, the applicant submits that the rate of GST applicable on henna powder was 5% since inception and this fact is confirmed by the Agenda Item No. 10 of the issues recommended by the Fitment

Committee for the consideration of the GST Council. The extracts from the Agenda Item are produced for the sake of convenient reference as follows: -

S. No.	Description	HSN	Present GST rate	Recommended GST rate	Comments of the Fitment Committee
13	Mehandi paste in cones	3305 /1404	18%	5%	<p>1. Henna powder falling under heading 1404 attracts 5% GST.</p> <p>2. Henna used as preparation for hair is classified under heading 3305 and attracts GST at the rate of 18%.</p> <p>3. To avoid disputes, fitment committee recommends 5% GST rate for mehandi paste in cones.</p>

Therefore, in light of the above cited extracts, which are relevant in the present case, the classification should be confirmed under HSN code 1404 with GST rate of 5%.

2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

Whether henna is classifiable under chapter 14 or 33?

3. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 04.03.2020 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Shri Pardeep Jain, C.A. (Authorised Representative) of applicant appeared for PH. During the PH,

he reiterated the submissions already made in the application and requested for early disposal of the application.

4. **COMMENTS OF THE JURISDICTIONAL OFFICER**

The jurisdictional officer (Assistant Commercial Tax Officer), State Tax, Ward-1, Circle-Pali, Zone-Pali, Kar Bhawan, Commercial Taxes Department, Mandia Road, Near LIC Office, Pali, Rajasthan 306401) has submitted his comments vide email dated 03.01.2020 which are as under:-

“Artificial Heena & Heena Cones covered under chapter 33.

Rate of Artificial Heena & Heena Product is classified under heading 3305 & attracts GST @18%.

Its cosmetic items.”

5. **FINDINGS, ANALYSIS & CONCLUSION:**

- While going through the submissions, we observe that the applicant is engaged in manufacture of hair dye powder in Sojat city and intends to manufacture Mehendi/Henna powder in future.
- The applicant has stated in his submissions that while filing application for registration under GST, he observed that his goods i.e. Henna powder was found in HSN code 14041019 so he accordingly classified his good in chapter 14 with rate of GST 5%. The applicant is contesting that when system itself is specifying the HSN code for henna powder as 14041019, there is no doubt that the said product will not be covered under Chapter 14. Though many in industry are classifying the same good in Chapter 33. Due to this confusion amongst the respected trade itself, he has applied for seeking advance ruling.
- First what is Henna or Mehendi?

As per Wikipedia,

Henna (Arabic: حناء), also known as mehndi in Hindi-Urdu, and hinah in Hebrew, is a dye prepared from the plant Lawsonia inermis, also known as hina, the henna tree, the mignonette tree, and the Egyptian privet,^[1] the sole species of the genus Lawsonia.

- From the above definition we observe that Henna and Mehendi are same product with different names and is obtained from Mehendi tree. Dried

leaves of Henna/Mehendi are collected and further grinded to obtain Mehndi/Henna powder.

- Now, to examine classification of Henna / Mehendi powder under CGST Act, 2017 and allied acts, Custom Tariff Act, 1975 were consulted.

We observe that the tariff items 14041011 to 14041090 has already been omitted from the custom tariff Act, 1975 vide the Finance Act, 2006 [No. 21 of 2006] dated 18th April, 2006 and hence no such tariff item is available in Customs Tariff Act, 1975.

The relevant extract of the Finance Act 2006 is as under:-

"(14) in Chapter 14,--

(i) for Notes 3 and 4, the following Note shall be substituted, namely:-- "3. Heading 1404 does not apply to wood wool (heading 4405) and prepared knots or tufts for broom or brush making (heading 9603).";

(ii) tariff item 1402 00 00 and the entries relating thereto shall be omitted;

(iii) heading 1403, sub-heading 1403 00, tariff items 1403 00 10 and 1403 00 90 and the entries relating thereto shall be omitted;

(iv) in heading 1404, sub-heading 1404 10, tariff items 1404 10 11 to 1404 10 90 and the entries relating thereto shall be omitted;"

- In view of the above, we observe that after the said amendments in the Customs Tariff Act, 1975 the question with regard to classifying the product Henna/Mehendi powder under tariff item 14041011 does not arise in as much as the fact that the tariff item has been omitted.
- We further observe that it is a well known fact that Henna/Mehendi powder has a natural property of dye/tanning and is generally used as hair dye. Therefore, we observe that the product is rightly classifiable under chapter heading 3305 as preparations for use on the hair and covered under amended Notification No. 41/2017-Central Tax (Rate) dated 14 November, 2017 of the principal Notification No. 1/2017 -CT(Rate) dated 28.6.2017 and

attracts GST @18% (CGST 9% + SGST 9%). The relevant extract of the Notification No. 41/2017-CT(Rate) dated 14.11.2017 is as under:-

Schedule-III (9%)


Notification No. 41/2017-CT(Rate) dated 14.11.2017

S. No.	Chapter heading/Sub heading/tariff Item	Description of Goods
59	3305	Preparations for use on the hair;


6. In view of the foregoing, we rule as follows: -

RULING

- Mehendi /Henna powder is covered under Chapter 33 and will attract GST @18% (CGST 9% + SGST 9%).


(J.P. MEENA) 06/05/2020
MEMBER
CENTRAL TAX




6/5/2020
(HEMANT JAIN)
MEMBER
STATE TAX

SPEED POST

✓ Sunil Kumar Gehlot
(Sunil Kumar & Co.),
Water Works Road, Sojat City,
District - Pali, Rajasthan 306401.

Copy to:-

1. The Chief Commissioner, CGST and Central Excise (Jaipur Zone) Jaipur, NCR Building, Statue Circle, Jaipur-302005.
2. The Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Commissioner, Central Tax, CGST and Central Excise Jodhpur Commissionerate, G-105, Gali No. 5, New Jodhpur Industrial Area, Jodhpur, Rajasthan 342003.
4. The State Tax Officer, State Tax, Ward-1, Circle-Pali, Zone-Pali, Kar Bhawan, Commercial Taxes Department, Mandia Road, Near LIC Office, Pali, Rajasthan 306401.