



**AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH**  
**4, Vibhuti Khand, Gomti Nagar, Lucknow**

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING U/S. 98 OF THE**  
**GOODS AND SERVICES TAX ACT, 2017**

Sub:- GST ACT, 2017 – Advance Ruling U/s 98 – liability to tax under GST Act in  
respect to application dated 26.02.2018 from M/s. Indo Prosoya Foods (P)  
Ltd., Kanpur – Order issued – Reg.

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1. M/s. Indo Prosoya Foods (P) Ltd., 54/10, Naya Ganj, Kanpur, Uttar Pradesh-208001 (here in after called the applicant) is a registered assessee under GST having GSTN : 09AAACI8129B1ZS.
2. The Applicant is engaged in the business of purchases of Mahua oil cake / Rice Bran for extraction of oil through solvent extraction Process.
3. Initially the Applicant has submitted application for Advance Ruling on 10.01.2018. On scrutiny of the application, it was found that they had a fee of Rs. 5,000/ only, whereas the applicant was required to pay a fee of Rs. 5,000/- each under the CGST & SGST. They have paid balance amount of Rs. 5,000/- on 26.02.2018 and submitted proof of payment on 27.02.2018.
4. The Applicant in his application has raised following issues for determination by the Authority –
  - a) Whether Mahua De-oiled cake/ De-oiled Rice Bran being used as an ingredient of Cattle Feed, Poultry Feed and other animal feeds and is 'Waste generated' during the Solvent Extraction process?
  - b) Whether the applicant is eligible to get entire tax input credit of GST paid on purchase of Mahua Oil Cake/Rice Bran Oil cake used in the manufacture of solvent extracted oil?
5. The applicant was granted a personal hearing on 27.02.2018 but they have requested for extension of the PH date and applicant was granted new date on 19.03.2018. Shri Pawanshree Agrawal and Shri Vaibhav Dixit, Advocates appeared on behalf of the applicant. In the written submission, the applicant has submitted that -
  - a. They purchases Mahua oil cake / Rice Bran for extraction of oil through solvent extraction process in which oil is the primary product and De-oild



Mahua Cake /De-oiled Rice Bran is obtained as by-product. The raw material used by the applicant are classified under the following HSN Code:-

Oil seed - 1207

Oil Cake – 2306

Rice Bran – 2302

- b. After processing, product manufactured by using the above said raw material is solvent Extracted oil, which is classified under HSN 1515.
  - c. The solvent extracted oil is obtained after palletisation and various other processes. Mahua oil cake / Rice Bran is fed to solvent Extraction Plant for extraction of oil through Hexane.
  - d. Hexane goes to solvent recovery system balance. De-oiled Mahua Cake /De-oiled Rice Bran is obtained as a by-product, which are wholly used as ingredient of fish meal/cattle feed.
  - e. Mahua De-oiled Cake is used for fish feed, fish farming and other aquatic uses, which is wholly used for the above purpose. De-oiled Rice Bran is used for cattle –Feed, Poultry Feed and other animal Feeds, which are wholly used for the above purpose.
  - f. During the process of the oil extraction, a huge quantity of de-oiled cake is also produced (almost to the 65%-70% of the raw material).
  - g. This de-oiled cake is actually a waste for the applicant since they are only registered under the law for production of edible oil.
6. On the basis of the facts disclosed in the application, the oral and written submission made at the time of personal hearing and the documents produced during the personal hearing, it was decided to admit application.
7. As applicant submitted that his main product is classified under HSN 1515. (As per Chapter Heading 1515 of the GST Tariff adapted by CGST/SGST) as under and the same are taxable -  
“Other fixed vegetable fats and oils (including jojoba oil) and their fractions.....”  
And heading 15159040 reads as under-  
“Fixed vegetable oils of edible grade namely the following: mango kernel oil, mahua oil, rice bran oil .....other”.  
Further, towards the heading 1522, which is residue resulting from treatment of fatty substances in respect of goods of the same chapter.
8. In reference to Input Credit (ITC) of GST paid on goods/services, Section 17(2) CGST Act,2017 is re-produced below –

*“Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under*



*the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies”.*

That means when common inputs are being used for both taxable and exempted supplies, the party is required to reverse the credit proportional to the amount of credit pertaining to the exempted supplies. ITC can be availed only on goods and services for business purposes. If they are used for non-business (personal) purposes, or for making exempt supplies ITC cannot be claimed.

9. From Classification of various goods it can be seen that de-oiled mahua cake and de-oiled rice bran emerging as by-products after the process of manufacture fall under HSN 2308 and 2309 as under –

10.

|          |                                                                                                                                                                                           |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23080000 | Vegatable material and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not else-where specified or included |
| 2309     | Preparations of kind used in animal feeding.                                                                                                                                              |

Mahua de-oiled cake has been described rich in sugars, nitrogen & proteins but also there is presence of some toxic saponins which limits its usages as fish or cattle feed. However, on mixing further with some other vegetable and cereal waste its usage in cattle feeding and fish feeding are usual in practice. De-oiled rice bran has been seen in its usage in largely cattle feed, poultry & fish feed.

11. As per Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 :-

| Sl. No. | Chapter / Heading / Sub-heading / Tariff item | Description of Goods                                                                                                                                                                           |
|---------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 102.    | 2302, 2304, 2305, 2306, 2308, 2309            | Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake |

12. The Above notification has been amended vide notification 7/2018-Central Tax (Rate) dated 25.01.2018 inserting an entry 102A, which reads as under -

In the said notification, - (1) in the Schedule, (i) in S. No. 102, for the entry in column (3), the entry “Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement &



husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than rice-bran]", shall be substituted; (ii) for S. No. 102A and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

|      |      |                      |
|------|------|----------------------|
| 102A | 2302 | De-oiled rice bran   |
| 102B | 2306 | Cotton seed oil cake |

Thus, de-oiled cake which is used for animal feed has been exempted by the entry 102 and de-oiled rice bran has been specifically exempted under 102A.

13. The case laws relied upon by the applicant are not applicable in their matter as such cases pertain to Central Excise Act, 1944 i.e. prior to GST regime.

14. The jurisdictional Officer, CGST & CX, Lucknow has also submitted views on the above said Advance Ruling application which are as under -

"Mahua de-oiled cake has been described rich in sugars, nitrogen & proteins but also there is presence of some toxic saponins which limits its usages as fish or cattle feed. However, on mixing further with some other vegetable and cereal waste its usage in cattle feeding and fish feeding are usual in practice. De-oiled rice bran has been seen in its usage in largely cattle feed, poultry & fish feed are usual in practice. So far that purpose it can be classifiable in 2309 and De-oiled rice bran has been seen in its usage in largely cattle feed, poultry and fish feed and is appears as classifiable in Chapter 2308. The input credit of GST paid on raw materials is not allowable in the present case since; the party is manufacturing taxable as well as exempt supply."

1. In view of the above, we rule as under;

### **RULING**

The point wise clarifications are as under:-

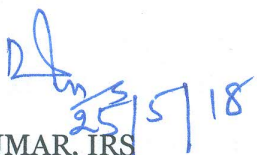
a) Whether Mahua De-oiled cake/ De-oiled Rice Bran being used as an ingredient of Cattle Feed, Poultry Feed and other animal feeds and is 'Waste generated' during the Solvent Extraction process?

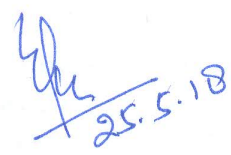
**Ans. -** Mahua De-oiled cake/ De-oiled Rice Bran is a by-product occurred during the Solvent Extraction process, which is used as an ingredient of Cattle Feed, Poultry Feed and other animal feeds.



- b) Whether the applicant is eligible to get entire tax input credit of GST paid on purchase of Mahua Oil Cake/Rice Bran Oil cake used in the manufacture of solvent extracted oil?

**Ans. –** The Input credit of GST paid on purchase of Mahua Oil Cake/Rice Bran Oil cake used in the manufacture of solvent extracted oil is partially allowed as per process/formula prescribed in the Chapter V (INPUT TAX CREDIT) of GST Rule, 2017, because, the applicant manufacturing both taxable and exempted goods by using raw materials viz. Mahua De-oiled cake and De-oiled Rice Bran. Further, if common inputs are used for both taxable and exempted supplies, the applicant is required to reverse the credit proportional to the amount of credit pertaining to the exempted supplies immediately.

  
DINESH KUMAR, IRS  
Additional Commissioner  
CGST & Central Excise, Lucknow  
(Member)

  
SANJAY KUMAR PATHAK  
Joint Commissioner (Law)  
Commercial Tax, Uttar Pradesh  
(Member)

To,  
M/s. Indo Prosoya Foods (P) Ltd.,  
54/10, Naya Ganj, Kanpur, Uttar Pradesh-208001.

#### **AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH**

Order No. 06  
Copy to –

Date: 25.05.2018

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Advance Ruling Appellate Authority.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Advance Ruling Appellate Authority.
3. Through the Additional Commissioner, Grade – I, Commercial Tax, Kanpur to jurisdictional tax assessing officers.
4. The Joint Commissioner, CGST & Central Excise, ~~Lucknow~~ Kanpur.