

HIMACHAL PRADESH AUTHORITY FOR ADVANCE RULING
(Constituted under section 96 of HPGST/CGST Act, 2017)
BEFORE THE BENCH OF

1. Shri Rakesh Sharma, Additional Commissioner of State Tax
2. Shri Abhay Gupta, Joint Commissioner of Central Tax

Name & Address of the Applicant	M/s Bakson Drugs & Pharmaceuticals Pvt. Ltd., Unit-II, Village Shillukalan, Patta Road, Parwanoo Solan, HP.
GSTIN of the Applicant	02AAACB1058L1Z2
Date of Application	24-07-2019
Question on which Advance Ruling is sought	Applicability of GST on ENA.

ORDER

The applicant is a registered person engaged in manufacture of Homeopathic formulations at Parwanoo, Himachal Pradesh

RECORDS OF PERSONAL HEARING – 2nd PROVISOS TO SECTION 98(2) OF CGST/HPGST ACT, 2017

Opportunity for personal hearing was granted to the applicant on 25-09-2019 & 15.11.2019 which was attended by Sh. Abhinav Sharma, Asstt. Factory Manager, Sh. Chetan Kumar Aggarwal, C.A and Sh. Narottam Kumar Rawat C.A. on behalf of the applicant. ENA is a very important input for the applicant. It was stated by the authorized representatives in the course of hearing that some of the suppliers are charging VAT/CST on ENA used in the manufacture of homeopathic formulations being manufactured by the applicant whereas others are charging GST. It was further stated that there appears no clarity on this issue to the suppliers of ENA.

The applicant is not engaged in the manufacture and supply of ENA presently. The representatives were asked to submit as to why the applicant is seeking advance ruling on this issue in view of the fact that advance ruling is binding only on the

taxpayer who has sought it. They were told that a ruling on this issue will not help the applicant in any way as he is not the supplier of the same. The representatives subsequently submitted that the applicant proposes to enter into the business of manufacture of ENA in future; therefore a ruling will be of help to him. The representatives were asked to submit documents to support their contention that the applicant seeks to enter into the business of supply of ENA. It is reasonable to expect that there is some preparation involved before one proposes to enter into any business. Moreover for entering into the business of manufacture and supply of ENA, it is necessary that a license is obtained under the provisions of Himachal Pradesh Excise Act, 2011. Further it has been held in numerous judicial pronouncements that grant of Excise license is not a matter of right. The representatives were asked to furnish such documents that support their version w.r.t. the applicant proposing to enter into the business of supply of ENA in the State of H.P. The representatives failed to submit any such documents.

In view of the aforesaid, it is reasonable to believe that the applicant only has academic interest in this issue.

Sub-section (a) of section 95 of the HPGST/CGST Act defines advance ruling as:-

“means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section(2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.”

Since the applicant is neither supplier of ENA nor he proposes to undertake supply of ENA, therefore the application for advance ruling is not admitted.

Pronounced.

Dated: 20-11-2019.


(Abhay Gupta),

Joint Commissioner of Central Tax


(Rakesh Sharma),

Addl. Commissioner of State Tax