

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

**Advance Ruling No. KAR ADRG 01 / 2021**

**Date : 08-01-2021**

Present:

1. Dr. Ravi Prasad M.P.  
Additional Commissioner of Commercial Taxes . . . . Member (State Tax)
2. Sri. Mashhood Ur Rehman Farooqui,  
Joint Commissioner of Central Tax, . . . . Member (Central Tax)

1.	Name and address of the applicant	M/s Karnataka Co-operative Milk Producers Federation Ltd., (Formerly known as KMF) KMF Complex, Dr.M.H.Mari Gowda Road, Bengaluru-560029
2.	GSTIN or User ID	29AAAAK1110G1Z7
3.	Date of filing of Form GST ARA-01	11.12.2020
4.	Represented by	Sri N Lokesh Reddy, C A & Authorised Representative
5.	Jurisdictional Authority - Centre	The Commissioner of Commercial Tax, Bangalore South Commissionerate.
6.	Jurisdictional Authority - State	LGSTO-040, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from cash ledger vide reference number DC2912200009504 dated 02.12.2020

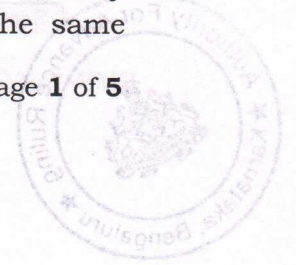
**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017  
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

1. M/s Karnatka Co-operative Milk Producers Federation Ltd., (formerly known as Karnataka Milk Federation (KMF)) (called as the 'Applicant' hereinafter), having GSTIN number 29AAAAK1110G1Z7, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & 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 an Association of persons and is registered under the Goods and Services Act, 2017, engaged in processing of milk and milk products. They manufacture Skimmed Milk Powder and Whole Milk powder, classify the same

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under tariff number 0402, taxable at 5% and supply the same to government schools through Zilla panchayaths under “Ksheera Bhagya yojana” scheme as part of the midday meal scheme to school children. Further, at the request of the Government of Karnataka to supply milk powder mixed with chocolate, they also manufacture & supply Chacolate flavoured Whole Milk Powder (Chocolate Milk Powder in short), effective from November 2017, to different schools located in the districts of Mysuru and Bellary region. They classified the said “Chocolate Milk powder” under chapter 1806 and are paying the GST at the rate of 18%.

3. The AG audit, during 2020, has raised an objection on the classification of Milk powder mixed with chocolate powder (Chacolate Milk Powder), saying that even after mixing of chocolate powder into Milk powder, the product will still remains as Skimmed milk powder / whole milk powder and the same has to be classified under chapter 0402 and not under chapter 1806. Thus the applicant has sought advance ruling in respect of the following question:

*Whether Chacolate Milk Powder to be classified under HSN 0402 or under 1806 or under any other Chapter?*

4. **Admissibility of the application** : The applicant, filed the instant application, in relation to classification of their product “Chocolate Milk Powder”. Further the applicant has sought advance ruling in respect of the question on the issues covered under Section 97(2)(a) of the CGST Act 2017 and hence the application is admitted.

5. **Applicant’s interpretation of law** : The Applicant submits their interpretation of law as under:

5.1 Milk Powder, as per the Food Safety and Standards Authority of India (FSSAI), means “Milk product/s which can be obtained by partial removal of water from milk or cream”. The fat or protein content or both of the milk or cream is adjusted, only to comply with the compositional requirements, in sub item (b) of item 2 of this sub-regulation, by addition or withdrawal of milk constituents in such a way as not to alter the whey protein to casein ration of the milk or cream being adjusted. Products shall be free from added whey and whey preparations.

5.2 Milk Powder should have the following composition specifications.

Component	Composition
Moisture, Maximum, %(m/m)	5.0
Milk Fat, % (m/m)	Minimum 26.0 and less than 42.0
Milk Protein in Milk solids not fat, Minimum % (m/m)	34
Titration acidity, Maximum (ml 0.1 NaOH for 10g Solids – not-fat)	18
Insolubility Index, Maximum, ml	2
Total ash, Maximum, % (m/m) on moisture and fat free basis	9.3
Scorched particles maximum	Disc B



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- 5.3 The above Specified percentages are requirements for classifying the product as milk Powder. Further, after mixing chocolate powder into the whole Milk powder the Milk Fat and protein content will come down to below the specified limit.
- 5.4 Milk powder, as per the Bureau of India Standards, has been described as "The material shall be white or white with greenish tinge, or light cream in color". It shall be free from lumps except those that breakup readily under slight pressure and shall be reasonably free from scorched particles. It shall also be free from extraneous matter.
- 5.5 After mixing chocolate powder the fat and protein composition will reduce from the above specified limit and it will not be in white color as per the Bureau of India Standards.
- 5.6 Based on the above parameters we have classified the product as chocolate milk powder, under chapter 18 and paying tax at the rate of 18%.

**PERSONAL HEARING: / PROCEEDINGS HELD ON 15.12.2020.**

6. Sri. N Lokesh Reddy, Chartered Accountant & duly authorised representative of the applicant appeared for personal hearing proceedings held on 15.12.2020 & reiterated the facts narrated in their application and sought time to furnish additional written submissions.

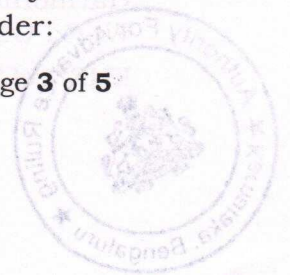
**7. FINDINGS & DISCUSSION:**

7.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Lokesh Reddy, C.A. and authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

7.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 provisions under the KGST Act.

7.3 The Applicant seeks advance ruling in respect of the classification of the product "Chacolate Milk Powder". The contentions of the applicant and the nature of the product have been examined and the same is discussed in the subsequent paras.

7.4 The Applicant, vide their letter dated 17.12.2020, submitted that the instant product "Chacolate Milk Powder" of 100 gram has the composition of 97.5% of Whole Milk Powder and 2.5% of Chacolate flavoured powder. They also furnished the composition of Chacolate flavoured powder, which is as under:



Sl. No.	Ingredients	Composition (% per 100g)
1	Cocoa Powder	02.25%
2	Cocoa Extract	01.00%
3	Maltodextrin	91.00%
4	Malt Powder	00.25%
5	Essence, Colour and Anti-caking agents	05.50%
	Total	100.00%

7.5 The Applicant further submits vide their letter supra that the whole milk powder is blended with chocolate flavoured powder in the ratio of 97.5 to 2.5 to obtain the instant product. They also furnished the compositional difference between the whole milk powder and the chocolate milk powder, which is as under:

Parameter	Whole Milk Powder	Chacolate Milk Powder
Moisture, maximum, %, (m/m)	5.0%	5.0%
Milk Fat, %, (m/m)	26%	25.3%
Milk Protein in milk solids-not fat, minimum, %, (m/m)	34%	33.15%
Other Milk Constituents, %	35%	34.125%

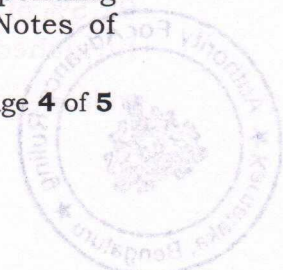
7.6 The applicant submits that the composition of specified parameters, under FSSAI, of whole milk powder get altered on blending of the whole milk powder with chocolate flavoured powder to obtain the instant product and hence the instant product can not be considered as Whole Milk Powder & thereby does not merit classification under 0402. Further the colour of the instant product does not satisfy the requirement of the colour of the whole milk powder, in terms of BIS standards and thereby even on this account also the instant product can't be considered as whole milk powder. In view of the above, the applicant contends that their product "Chacolate Milk Powder" merits classification under heading 1806.

7.7 We proceed to examine the instant issue. In this regard it is pertinent to mention here that in respect of Tariff Headings and determination of Classification, Explanations (iii) and (iv) appended to the Notification No. 01/2017- Central Tax (Rate), dated 28.06.2017 are relevant. The said explanations are reproduced below for ease of reference.

- (iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

Accordingly we make a reference to the Section Notes and Chapter Notes of the relevant Chapters of the Customs Tariff and also the corresponding Harmonised Commodity Description and Coding System Explanatory Notes of World Customs Organisation (WCO).

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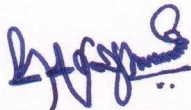
7.8 Milk and Milk products are classified in Chapter 4 and the headings 0401 & 0402 are relevant to Milk / Milk in the form of powder or granules and crème. The product in the instant case is neither milk nor milk powder but "Chocolate Milk Powder", which is admittedly obtained on blending of Whole Milk Powder with Chocolate Flavoured Powder in the ratio of 97.5 to 2.5. Further it is an admitted / undisputed fact that the product in question also does not have the characteristics, required under FSSAI and BIS, to be considered as Milk Powder, in terms of para 7.5 supra. Thus the instant product does not cover under the heading 0401 or 0402. The other remaining headings of Chapter 4 are not relevant to the instant product.

7.9 We, now proceed to examine the alternate / competing entry under Chapter 18, which covers cocoa (including cocoa beans) in all forms, cocoa butter, fat and oil preparations containing cocoa. Explanatory Notes of World Customs Organisation to heading 1805 clearly specify that cocoa powder to which milk powder or peptones have been added fall under tariff heading 1806. Heading 1806 covers Chocolate and other food preparations containing cocoa and World Customs Organisation explanatory notes to the said heading clearly specify that the heading 1806 includes all food preparations containing cocoa. The instant product being a food preparation made out of blending of white milk powder with cocoa. Thus the instant product merits classification under heading 1806.

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

### **RULING**

1. The product "Chocolate Milk Powder" is classified under the Tariff heading 1806.



(Dr. Ravi Prasad M.P.)

Member MEMBER  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009

Place : Bengaluru,

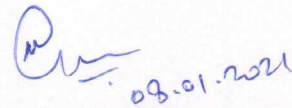
Date : 08-01-2021

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 Tax, Bangalore South Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-40, Bengaluru.
5. Office Folder



(Mashhood Ur Rehman Farooqui)

Member  
MEMBER

Karnataka Advance Ruling Authority  
Bengaluru - 560 009

