

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai –
400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Ms. P. Vinitha Sekhar, Additional Commissioner of Central Tax, (Member)
(2) Mr. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAECR5402J1ZE
Legal Name of Applicant		ROYAL CARBON BLACK PRIVATE LIMITED
Registered Address/Address provided while obtaining user id		NEW ERA MILLS COMPOUND. MOGUL LANE, MATUNGA (W) MUMBAI 400016
Details of application		GST-ARA, Application No. 50 Dated 07.10.2019
Concerned officer		MUM-VAT-E-903, Nodal Division – 05, Mumbai
A	Category	Factory / Manufacturing
B	Description (in brief)	Applicant is in the manufacturing business of complete recycling of used tyres. In the process of recycling such used tyres, one of the by-products is pyrolysis oil which is sold as liquid fuel.
Issue/s on which advance ruling required		(i) classification of goods and/or services or both
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.



PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively] by ROYAL CARBON BLACK PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following questions.

What is the (HSN) classification of Tyre Pyrolysis Oil and what is Current rate of tax applicable?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant is as under:-

- 2.1 M/s Royal Carbon Black Pvt. Ltd., the applicant, has raised the question regarding *classification of Tyre Pyrolysis Oil and the rate of tax applicable thereon*. The manufacturing process and a test report in respect of the impugned product i.e. Pyrolysis Oil is submitted.
- 2.2 As per the submission, Tyre is made out of 30% to 35% Carbon, 35% to 40 % rubber and 10% to 15% steel. Once the tyres are removed from the car it becomes a waste. This waste is recycled by the applicant and the rubber component of the tyres is converted into oil which can be used for heating purposes and can be called as pyrolysis oil. Like Biodiesel, Pyrolysis oil can also be sold in similar applications as a liquid fuel.
- 2.3 Applicant has submitted that pyrolysis oil should be qualified as either a Biodiesel (HSN 3826) as it is derived from rubber part of the Tyre which is renewable in nature just like Palm Oil made from Palm fruit used to make biodiesel or as a Marine Fuel (HSN 2710) as its specifications meet that of Marine fuels.

03. CONTENTION – AS PER THE JURISDICTIONAL OFFICER:

- 3.1 The jurisdictional officer has submitted a table as under and has stated that Pyrolysis oil is widely used as an industrial fuel to substitute furnace oil or industrial diesel. Pyrolysis oil is mainly used in Machines that do not require high quality fuel oil. Biodiesel is typically made by chemically reacting lipids (all organic sources) and pyrolysis oil is made of inorganic sources, hence cannot be treated as Biodiesel.



Sr. No.	Tariff Code	Description	Royal Carbon Products	Rate
1	28030010	Carbon black	Carbon Black	18%
2	40040000	Waste Rubber	Rubber	5%
3	27101950	Fuel oil	Pyrolysis Oil	18%
4	72041000	Waste Scrap steel	Steel as A Scrap	18%

3.2 The jurisdictional officer has made additional submission on 10.02.2020, and stated therein that, according to Annexure A and B provided, the applicant is into complete recycling of used tyres and in such a process of recycling, one of the byproducts is pyrolysis oil which is sold as liquid fuel. In GST there is no separate entry of pyrolysis oil which is the end product of waste tyre. The oil is widely used as industrial fuel to substitute furnace oil or industrial diesel. Applicant has requested to classify Pyrolysis oil either as Biodiesel (HSN 3826) or as Marine fuel (HSN 2710).

3.3 **Biodiesel is a Renewable fuel** that can be produced from a wide range of vegetable oils or animal fats and may be used either as a replacement for or as a component of diesel fuel. As per Wikipedia, 'Biodiesel' refers to a vegetable oil-or animal fat-based diesel fuel consisting of long-chain alkyl (methyl ethyl or propyl) esters. Biodiesel is typically made by chemically reacting lipids like vegetable or soybean oil, animal fat, etc. with alcohol producing fatty acid esters. Biodiesel is meant to be used in standard diesel engines and is thus distinct from the vegetable and waste oils used to fuel converted diesel engines. Biodiesel can be used alone or blended with petro diesel in any proportions. Biodiesel blends can also be used as heating oil. The National Biodiesel Board (USA) defines "biodiesel" as a mono-alkyl ester.

3.4 **Marine Fuel Oil**, also known as heavy oil or furnace oil is a fraction obtained from petroleum distillation, either as a distillate or a residue. In general terms, fuel oil is any liquid fuel that is burned in a furnace or boiler for the generation of heat or used in an engine for the generation of power, except oils having a flash point of approximately 42 °C (108 °F) and oils burned in cotton or wool-wick burners. Fuel oil is made of long hydrocarbon chains, particularly alkanes, cycloalkanes, and aromatics. The term *fuel oil* is also used in a stricter sense to refer only to the heaviest commercial fuel that can be obtained from crude oil, i.e. heavier than gasoline and naphtha. Small molecules like those in propane, naphtha, gasoline for cars, and jet fuel have relatively low boiling points, and they are removed at the start of the fractional distillation process. Heavier petroleum products like diesel fuel and



lubricating oil are much less volatile and distill out more slowly, while bunker oil is literally the bottom of the barrel; in oil distilling, the only things denser than bunker fuel are carbon black feedstock and bituminous residue (asphalt), which is used for paving roads and sealing roofs. Biodiesel is typically made by chemically reacting lipids (all organic sources) and pyrolysis oil mentioned above is made of inorganic sources.

- 3.5 In view of the above it is seen that Pyrolysis oil is neither made of any vegetable oil or animal fat and the production process of **pyrolysis oil does not involve any kind of distillation of any petroleum product**. Hence it cannot be termed as biodiesel or marine fuel. Hence the contention of the applicant cannot be accepted.

04. HEARING

4.1 Preliminary hearing in the matter was held on 10.12.2019. Shri B.N. Kamath and Shri Pratik Shah, both Accountants, appeared and requested for admission of their application. Jurisdictional Officer Shri Kishor Pawar, Dy. Commr., E-903, Nodal V, Mumbai also appeared.

4.2 The application was admitted and final hearing was held on 11.02.2020. Shri Vishesh Agarwal, CEO, Shri B.N. Kamath, and Shri Pratik Shah, both Accountants, appeared, made oral and written submissions. Jurisdictional Officer Shri Kishor Pawar, Deputy Commr., E-903, Nodal V, Mumbai also appeared and made oral and written submissions. We heard both the sides.

4.3 Further online hearing was granted to the applicant on 10.11.2020 and the said hearing was conducted accordingly on 10.11.2020. The Authorised Representative, Shri Vishesh Agarwal attended the hearing and made his submissions. Jurisdictional Officer was absent.

05. OBSERVATIONS AND FINDINGS:

5.1 We have gone through the facts of the case, documents on record and written submissions made by both, the applicant as well as the jurisdictional officer. Applicant has requested this authority to classify the product "Pyrolysis Oil" being manufactured by them.

5.2 We find that the Applicant is engaged in recycling of the waste tyres used by vehicles and pyrolysis oil is recovered during the said process of recycle, along with other products like Iron and Steel and carbon black. It is only the rubber component of the

tyre which is converted into Pyrolysis Oil, which can be used for heating purposes and as a liquid fuel. Applicant has submitted that Pyrolysis oil can also be sold as a liquid fuel

- 5.3 Since there is no specific and separate schedule entry prescribed for “Tyre pyrolysis oil”, we are required to classify the said product.
- 5.4 Applicant has submitted that pyrolysis oil should be classified as a Biodiesel falling under HSN 3826 since it is derived from the rubber part of a tyre, which is renewable in nature or alternatively, it should be classified as Marine Fuel falling under HSN 2710 as its specifications meet that of Marine fuels.
- 5.5 To arrive at the proper classification the Applicant was requested, during the course of the online hearing conducted on 10.11.2020, to submit the composition of the subject product, in respect of which, classification is sought. The applicant submitted that the composition of the subject product would vary depending on the types of raw materials used, namely tyres. The applicant has not shown an inclination to submit the required details and therefore, in absence of submissions of full details, this authority cannot arrive at the correct classification of the subject product. Applicant has made submissions and stated that the chemical composition of their product changes depending on the types of tyres being used.
- 5.6 The Applicant vide email dated 20.11.2020, has made submissions which appear to have been sourced from the internet. However they have not made any submissions in respect of the chemical composition of their product nor have submitted any test report which shows the composition of their product.
- 5.7 In view of non-submission of details, as mentioned above, this Authority cannot pass a Ruling on the questions raised by the Applicant.
06. In view of the above discussions, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 50/2019-20/B- 60

Mumbai, dt. 15.12.2020

For reasons as discussed in the body of the order, the questions are answered thus –

Question. What is the (HSN) classification of Tyre Pyrolysis Oil and what is Current rate of tax applicable?

Answer: - The said question cannot be answered in view of non-submission of full details by the Applicant as mentioned under the Observations and Findings section of the order.



Ramnani
15-12-2020
T. R. RAMNANI
(MEMBER)

P. Vinitha
15/12/2020
P. VINITHA SEKHAR
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.