

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) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAHCA8881H128
Legal Name of Applicant	ALLIGO AGROVET PRIVATE LIMITED
Registered Address/Address provided while obtaining user id Corresponding Address	1025/402B, SHANTA MADHAV SANKUL, 4 TH FLOOR, TRIMBAK ROAD, MICO CIRCLE, TIDKE COLONY, NASHIK 422002
Details of application	GST-ARA, Application No. 02 Dated 02.04.2019
Concerned officer	STATE-NAS-VAT-C-018 , NASIK.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory/Manufacturing.
B Description (in brief)	We are engage in manufacturing of Organic Fertilizers. We seek clarification on classification and GST rate applicable for our manufacturing goods. The list of goods along with its use, leaflets and products certificate and GST rate applicable according to us already submitted with the application.
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 **M/s. ALLIGO AGROVET PRIVATE LIMITED**, the applicant, seeking an advance ruling in respect of the following question.

1. Classification of goods and GST rate applicability in the case of goods manufactured by us (list enclosed)

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, a reference to "GST Act" would means CGST Act / MGST Act.

3. **FACTS AND CONTENTION - AS PER THE APPLICANT**

The goods manufactured and supplied by us cover under Organic Fertilizers and the same have been certified by the INDOCERT, BIOCERT (as institute / authorities) appointed under National programme for organic Production, Department of Commerce, New Delhi.

The Products mentioned in enclosed list contain Animal or Seaweed Plant excreta, Nitrogenous, Potassic Fertilizers and Micronutrients which are required for the growth and development of the plant and also used to increases overall yield and quality of plant produce. Therefore, according to us products correctly classify under HSN 3101 or 3105.

Additional submissions:

[A] **PRODUCTS SUBMITTED FOR CLARRIFICATION REGARDING CLASSIFICATION IS, ORGANIC CERTIFIED PRODUCTS AS PER STANDARDS OF (NPOP) NATIONAL PROGRAMME FOR ORGANIC PRODUCTION.**

1. Our product for which seeking clarification is certified Organic Products under the NATIONAL PROGRAMME FOR ORGANIC PRODUCTION (NPOP) GOVERNED UNDER (APEDA-AGRICULTURE AND PROCESSED FOOD PRODUCTS) THE MINISTRY OF COMMERCE & INDUSTRY GOVT. OF INDIA.

The Government of India has implemented the National Programme for Organic Production (NPOP). The national programme involves the accreditation programme for Certification Bodies, standards for organic production, promotion of organic farming etc.

The NPOP standards for production and accreditation system have been recognized by IFOAM (International Federation Of Organic Agro Movements), European Commission and Switzerland for unprocessed plant products as equivalent to their country standards.

Similarly, USDA has recognized NPOP conformity assessment procedures of accreditation as equivalent to that of US. With these recognitions, Indian organic products duly certified by the accredited certification bodies of India are accepted by the importing countries.

2. Our products certified after verification and inspection done by the INDOCERT and BIOCERT authorities appointed under NPOP, and audited, renewed annually. Since last 5 (Five) years we were following the Organic principals of farm Inputs as per NPOP. Copy of certificate issued by the INDOCERT and BIOCERT submitted for your perusal.

[Copy of Certificate enclosed Annexure -

A].

3. The list of products declared in Annexure-1 as per standard of NPOP which can be used for formulation and manufacturing of agricultural Inputs are enclosed herewith for your ready reference.

(Copy of Annexure-1 enclosed Annexure - A1]

[B] RESIDUE ANALYSIS REPORT



We intend to submit that, when our products were tested by the Govt. laboratory of National Horticultural Research and Development Foundation, Nashik we did not find any ingredients of Fungicides, Pesticides or insecticides and Plant growth Regulators. Copy of products sample Test Report enclosed for your ready reference.

We can also submit products samples, for further testing or verification to the Hon'ble authorities.

(Copy of Analysis Report enclosed Annexure.- B)

[C] OUR PRODUCT DOES NOT FALL UNDER THE CATEGORY OF PESTICIDE, Our product is not falling under the category of Pesticides. They are having fertilizing elements that promote healthy plant growth and plant immunity,

The products manufactured by us have Organic Extracts of Animal & Plant Origin. For e.g. products have Marine-Sea Weed Extract, Plant Extracts etc.

[D] CLASIFICATION OF PRODUCTS

1. Fertilisers as Per FCO 1985.

Definition of Fertiliser as per FCO 1985 - *(h) "fertiliser" means any substance used or intended to be used as a fertiliser of the soil and/or crop and specified in Part A of Schedule I and includes a mixture of fertilizer and special mixture of fertilisers provisional fertiliser, customised fertilizer; Bio-fertilizers specified in Schedule III and Organic fertilizers specified in Schedule IV*

Definition of fertilizer under FCO has a functional definition and a list specific definition; Under FCO, Fertilizer should satisfy two conditions which are joined by the conjunction and^r in above definitions.

- (i) It should be a substance used or intended to be used as a fertilizer of the soil and/or crop (Basic functional definition); and
- (ii) It should be specified in either Part A of Schedule-I or Schedule-III or Schedule-IV. (Out of the fertilizers, which qualify the functional definition, only the fertilizers which are listed in schedule shall be subjected to controls under FCO).

Therefore, the products manufactured by us are organic fertilisers by functions and also having fertilizing elements. But as clarified above they won't be governed under FCO as well as Insecticides Act, 1968.

The organic products not covered under FCO are governed as per NPOP Norms and certified accordingly.

[Copy of definition of fertilisers as per FCO enclosed Annexure-C]

2. FCO is not relevant to classify products as fertilisers, CBIC Circular No. 1022/10/2016-CX dated 06th April 2016.



a) As stated in above Para FCO are not relevant for classification of fertilisers' products, the same also clarified in CBIC Circular 1022/10/2016-CX dated 06th April 2016. Para 4 of the circular reproduce below for your ready reference;

Para 4. Fertilizers are classified under chapter 31 of the Central Excise Tariff and for this purpose they may interalia be minerals or chemical fertilizers - nitrogenous (CETH 3102), phosphatic (CLTH 3103), potassic (CETH 3104) or fertilizers consisting of two or three of the fertilizing elements namely nitrogen, phosphorous and potassium; other fertilizers (CETH 3105). For the purpose of classification of any product as "other fertilizers", chapter note 6 of Chapter 31 is relevant which provides that the term "other fertilizers" applies only to products of a kind used as fertilizers and contain, as an essential constituent, at least one of the elements nitrogen, phosphorus or potassium. It is quite clear that for any product to merit classification under CETH 3105 as other fertilizers, the product must have nitrogen or phosphorus or potassium or their combination as an essential constituent providing the essential character to the product. The chemical elements - nitrogen; phosphorus and potassium are also referred as macronutrients or primary fertilizer elements and are required in higher quantity by the plants. 4.2 Any product where the essential elements are not nitrogen or phosphorus or potassium or their mixture would not merit classification under CETH 3105. Further, the specific exclusion of separate chemically defined compounds as laid down in chapter note 6(i) and in the HSN Explanatory Notes to the heading 3105.90, reinforce the above conclusion. It may also be noted that notifications issued under Fertilizer Control Order are not relevant for deciding classification under the Central Excise Tariff.

3. **Our Products do not cover under Plant Growth Regulator.**

A) Further in the said Circular, category and type of PGR's has also been clarified/explained in detailed. Plant Growth Regulators are defined as organic compounds other than nutrients that affect the physiological processes of growth and development in plants when applied in low concentration. These are in the nature of plant hormones and classical of them are auxins, cytokinins, gibberellins (all three promoters) and abscisic acid, ethylene (both inhibitors). A list of some of the PGRs industrially produced in India is enclosed with the Circular by reply of IARI reproduce below for ready reference –

S N	Points	Comments
i)
ii)
iii)	What are Plant Growth	PGRs: -Plant growth regulators defined as organic compounds other than nutrients that affect the physiological processes of growth



<p>regulators (PGR)' What are their functions in the plant'</p>	<p>and development in plants when applied in low concentrations. Plant growth regulators are active at low concentrations (1-10 ng / nl) in promoting, inhibiting or. Modifying growth and development.</p> <p>-They are either natural or synthetic compounds that are applied directly to a target plant to alter its life processes or its structure to improve quality, increase yields, or facilitate harvesting. In modern agriculture, people have established the benefits of extending the use of plant hormones to regulate growth of other plants. When natural or synthetic substances used in this manner, they are called Plant Growth Regulators.</p> <p>Role:</p> <p>-Plant hormones are produced naturally by plants and are essential for regulating their own growth. They act by controlling or modifying plant growth processes, such as formation of leaves and flowers, elongation of stems, development and ripening of fruit etc.</p> <p>-Plant hormones rarely act alone, and for most processes—at least those that are observed at the organ level-man)' of these regulators have interacted in order to produce the final effect.</p> <p>Examples:</p> <p>(a) Classical plant hormones (auxins, cytokinins, gibberellins, abscisic acid, ethylene) and growth regulatory substances with similar biological effects.</p> <p>(b) More recently discovered natural growth substances that have phytohormonal-like regulatory roles (polyamines, oligosaccharins, salicylates, jasmonates, sterols, brassinosteroids, dehydroniciferyl alcohol glucosides, turgorins, systemin, unrelated natural stimulators and inhibitors), as well as myoinositol. Many of these growth active substances have not yet been examined in relation to growth and organized development in vitro.</p>
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In the instant case none of the above stated components / elements are found in our products. They only promote normal growth. Therefore; our products classify or cover correctly under HSN 3101 - Organic fertilisers.

(Copy of Circular enclosed Annexure --D)

B) We reiterated to further submit that, the product cannot go to HSN 3808 it should be classified under HSN 3101, on the basis of following grounds;

<p>Fertilizers</p> <p>Tariff Heading 31.01 : Animal or vegetable/ fertilizers, whether or not mixed together or chemically treated; fertilizers produced by the mixing or chemical treatment of animal or vegetable products.</p>	<p>Plant Growth Regulators</p> <p>Tariff Heading 3808 : Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphus-treated bands, wicks and candles, and fly-papers).</p>
<p>HSN Explanatory Notes</p> <p>This heading covers :</p> <p>(a) Animal or vegetable fertilizers, whether or not mixed together or chemically treated;</p>	<p>HSN Explanatory Notes</p> <p>The heading further covers anti-sprouting products and plant growth regulators intended to inhibit or modify physiological processes in plants.</p>

<p>(b) Animal or vegetable products converted into fertilizers by mixing together or chemical treatment.</p> <p>Note: The products covered under Chapter chapter 31 are only intended for enhanced growth and not intended for adverse growth as in case of PGRs.</p>	<p>Plant Growth Regulators are applied to alter the life processes of a plant so as to accelerate, or retard growth, enhance yield, improve quality or facilitate harvesting</p> <p>Note: The products covered under 38 are intended to inhibit or modify physiological changes in plants, i.e., altering or modifying the plant's structure and life processes. PGRs particularly bring hormonal changes in the plants. PGRs effect both accelerated and retarded growth.</p> <p>And all of them are covered in the schedule of Insecticide Act, 1968 as amended time to time.</p>
<p>Chapter Note in CTA, 1975 This Chapter covers most products in general uses as natural or artificial fertilizers:</p> <p>Note : Chapter Note to Chapter 31 States that it covers products used as natural or artificial fertilizers.</p>	<p>Chapter Note in CTA, 1975 This Chapter covers a large number of chemical and related products. It does not cover separate chemically defined elements or compounds (usually classified in Chapter 28 or 29), with the exception of the following: Note : Chapter note to Chapter 38 States that it covers only chemical products and Chemical related products.</p>

From the above definitions, HSN Explanatory Notes, it can be said that the fertilizers help in overall growth of the plants. It is inferred that fertilizers provide nutrients to soil making it more fertile and thus provide overall growth of plants, and;

From the above definitions, HSN Explanatory Notes; it can be said that the PGRs help in selective growth of the plants. It is inferred that PGRs do not provide nutrients to the plants rather promotes or inhibits growth of a selected part of plants.

We rely on the judgment of Hon'ble CESTAT-Delhi in the case of *Northern Minerals Ltd.* [2001 (131) E.L.T. 355 (Tri.-Del.) further affirmed in [2003 (156) E.L.T. A161 (S.C.)], the Hon'ble CESTAT held that; *"Plant Growth Regulators are natural or synthetic organic compounds other than nutrients and that they can modify, inhibit or alter physiological processes in plants. Therefore, for the purpose of classification of products as a plant growth regulator under the heading 3808, it is to be seen that the product has a functional ability to inhibit or alter or modify plant processes."*

[Copy of Case Law enclosed Annexure... E1]

Therefore in the line of the aforementioned judgment it can be said that the products should possess a functional ability of inhibiting or altering the plant processes to be classified under Heading 3808. Since our products are Organic fertilizers to promote plant growth and not change modify plant growth, therefore; will be covered under a more specific Heading 3101 and will not covered under 3808 as plant growth regulators.

4. Our Products also contains and having the Fertilising Elements of N-P-K (nitrogen, phosphorous and potassium).

- A) We hereby declare that, list of our product submitted for seeking clarification on classification are also contain fertilising elements N-P-K (nitrogen, phosphorous and potassium)

For our internal knowledge and product development we had verified (testing) N, P, K component in our products from soil . testing and bio-chemistry, laboratory 'National Horticultural Research and Development Foundation', Taluka Niphad, Dist. Nashik and from Private Labs also.

As per Lab Test Report it was confirmed that, Nitrogen and Potash available / found in the product. Copy of Lab Test Report for products Autus, Q-Prax, SJ-Eraser, Shyam Samruddhi, SJ Ninja, Stress Out, Telnar, and VK's Nemo etc. enclosed herewith for your ready reference:

(Copy of Test Report enclosed Annexure - F)

- B) We rely on the judgement of Hon'ble CESTAT-Chandigarh in the case of Safex Chemical India Ltd. Vs. Comm. Of Central Excise Rohtak reported in 2017 (7) G.S.T.L. 234 (Tri. - Chan.), the Hon'ble CESTAT pronounced that, *"Product composed of sulphates, borates, silicates of potassium, ammonium, and iron and containing auxins & cytokinins also in addition to other ingredients, used for replenishment of nutrients of soil, classifiable under sub heading 3101 00 of Central Excise Tariff as 'vegetable fertilizer' as held under impugned order after detailed analysis, and not under sub-heading 3808 90 ibid as plant growth regulator"*.

(Copy of Case Law enclosed Annexure-G)

- C) We also rely on the judgement of Hon'ble CESTAT- HYDERABAD in the case of ARIES AGROVET INDUSTRIES LTD. reported in 2017 (7) G.S.T.L. 317 (Tri. - Hyd.), the Hon'ble CESTAT pronounced that *Fertilizers - Micronutrient fertilizers - Chelamin, Agromin, Chelafer and Chelacop. - Products are mixtures, and not separate chemically defined compounds, and contain more than one of nutrients listed in C.B.E. & C. Circular No. 1022/10/2016-CX, dated 6-4-2016, as well as recognizable percentage of nitrogen - Therefore, items come under ambit of 'micronutrient fertilizers', classifiable under Heading 31.05 of Central Excise Tariff as other fertilizers', as held under impugned order, and not under Heading 38.08 ibid as plant growth regulators' as contended by Revenue.*

[Copy of Case Law enclosed Annexure - H]

We reiterated to submit that; as per general rules of interpretation of CTA, 1975 Rule 3(a) the heading which provides more specific description shall be preferred to heading providing a more general description. Therefore; in our case heading 3101 provides more specific description than the heading provided in HSN 3808.



E) THE DETAILS EXPLANATION OF OUR GOODS / PRODUCT CONTENTS ARE AS UNDER:

S/N o.	Product Name	Use	Content	Type
1	AUTUS	AUTUS is an organic manure liquid. It enhances nitrogen uptake and photosynthesis process. AUTUS increases lateral and white root population improving rate of absorption of fertilizers helping to withstand stress condition. AUTUS increases yield, keeping fruit, vegetables and perennial crops, quality while reducing flower & fruit drop.	Marine Plant Extract- 02% Potash -0.2% Copper: -0.02% Stabilizer -10% Aqua Q.S.	Organic manure liquid
2	SHYAM SAMRUDDHI	Shyam Samruddhi is a novel combination of organic, N,P,K,S, and amino fertilizer source providing Zn, Fe, Me, Boron microelements in bioavailable form. Shyam Samruddhi acts as excellent soil conditioner improving white root development, enhancing crop quality, vitality & texture. Shyam Samruddhi is applicable to vegetable, horticulture trees, cereals and field crops with compatibility to urea like other fertilizers.	Organic Nitrogen Source - 10.00% Organic Phosphorus source - 01.00% Organic Potash Source 01.50% Organic Sulphar - 12.00% Humic Acid 04.79% Glutamic Acid 04.65% Methionine 0.40% Phenylalanine 0.45% Lysine 0.32% Arginine 0.25% Glycine 0.30% Additives 0.34% Organic Matter - 60.00%	Organic Slow Release Soil Manur
3	SJ-NINJA	SJ-Ninja is a micronutrient liquid supplying zinc and copper as a nutrient source to plants. SJ-Ninja is with pure natural properties safe to the crops & human. SJ-Ninja can be included in IPM programme. SJ-Ninja also increases plant immunity.	Algal extract 10% Organic copper 0.03% Zinc 0.9% Stabilizer 10% Aqua Q.S.	Micronutrient liquid
4	SJ-ERASER	SJ-Eraser is a unique micronutrient liquid fomulation: SJ-Eraser gives result in 48 to 72 hours. Plant vigour and strength is developed due to use of SJ-Eraser. SJ-Eraser enhances plant immunity. SJ-Eraser can be included in IPM programme.	Algal extract 10% Nitrogen 0.4% Potash 0.2% Stabilizer 10% Aqua Q.S.	micronutrient liquid formulation
5	Q-PRAX	Q-Prax is a novel liquid microfertilizer. Q-Prax promotes carbohydrate and protein formation. Q-Prax activates lignin synthesis and photosynthesis of plants. Q-Prax makes plant more tolerant to epidemics.	Algal extract - 10% Organic copper 0.6% Stabilizer - 10% Solvent - Q.S.	microfertilizer liquid
6	TELNAR	Telnar is a unique micronutrient liquid. Telnar helps plant to achieve better yield. Telnar removes micronutrient deficiency. Telnar helps plant to become more resistant against bacterial pathogenic attack Telnar can be included in IPM programme.	Algal extract 10% Copper- 0.6% Emulsifiers 05% Stabilizers - 05% Solvent Q.S.	microfertilizer liquid
7	VK'S NEMO	VK's NEMO is a specialised microfertilizer liquid. VK's NEMO converts more amino acids in proteins. VK's NEMO on soil application enhances starch production and root development. VK's NEMO also	Algal extract 04% Camelia dust 03% Organic copper 03% Organic zinc 0.6% Stabilizer 10% Aqua Q.S.	Microfertilizer liquid



		increases plant immunity against nematode infection.		
8	STRESS OUT	Stress Out is an excellent supplement to regular, fertilizer program. Stress Out increases overall yield and quality of plant by increasing nitrite reductase activity and decreases residual nitrite and nitrate. Stress Out helps the plant to sustain against adverse stresses by activating enzymes of antioxidant defence system. Stress Out enhances color, sugar content and firmness of fruits and flowers. Stress Out is a residue-free formulation.	Fungal extract 10% Zinc 0.3% Antifoam agent - 05% Stabiliser -10% Solvent -Q.S.	Organic manure liquid

CLASSIFICATION OF PRODUCTS

Sr. No.	Product Name	Use	Content	Type	HSN	GST Rate	Condition
1	AUTUS	AUTUS is an organic manure liquid. It enhances nitrogen uptake and photosynthesis process. AUTUS increases lateral and white root population improving rate of absorption of fertilizers helping to withstand stress condition. AUTUS increases yield, keeping fruit, vegetables and perennial crops, quality while reducing flower & fruit drop.	Marine Plant Extract-2% Potash -0.2% Copper-.02% Stabilizer-10% Aqua Q.S.	Organic manure liquid	3101 00 99	Nil or 5%	Other than those put-up in unit container or put-up in unit container
2	SHYAM SAMRUDDHI	Shyam Samruddhi is a novel combination of organic, N,P,K,S. and amino fertilizer source providing Zn, Fe, Me, Boron microelements in bioavailable form. Shyam Samruddhi acts as excellent soil conditioner improving white root development, enhancing crop quality, vitality & texture. Shyam Samruddhi is applicable to vegetable, horticulture trees, cereals and field crops with compatibility to urea like other fertilizers.	Organic Nitrogen Source-10.00% Organic Phosphorus source - 01.00% Organic Potash Source -01.50% Organic Sulphur - 12.00% Humic Acid 04.79% Glutamic Acid 04.63% Methionine 0.40% Phenylalanine .45% Lysine 0.32% Arginine 0.25% Glycine 0.30% Additives 0.34% Organic Matter - 60.00%	Organic Slow Release Soil Manur	3105 or 3105 90 90	5% or 18 %	Packages of gross weight not exceeding 10 KGS.
3	SJ-NINJA	SJ-Ninja is a micronutrient liquid supplying zinc and copper as a nutrient source to plants. SJ-Ninja is with pure natural properties safe to the crops & human. SJ-Ninja can be included in IPM programme. SJ-Ninja also increases plant immunity.	Algal extract 10% Organic copper 0.03% Zinc 0.9% Stabilizer 10% Aqua Q.S.	Micronutrient liquid	3101 00 99	Nil or 5%	Other than those put-up in unit container or put-up in unit container



4	SJ-ERASER	SJ-Eraser is a unique micronutrient liquid formulation: SJ-Eraser gives result in 48 to 72 hours. Plant vigour and strength is developed due to use of SJ-Eraser. SJ-Eraser enhances plant immunity. SJ-Eraser can be included in IPM programme.	Algal extract 10% Nitrogen 0.4% Potash 0.2% Stabilizer 10% Aqua Q.S.	micronutrient liquid formulation	31010099	Nil or 5%	Other than those put-up in unit container or put-up in unit container
5	Q-PRAX	Q-Prax is a novel liquid microfertilizer. Q-Prax promotes carbohydrate and protein formation. Q-Prax activates lignin synthesis and photosynthesis of plants. Q-Prax makes plant more tolerant to epidemics.	Algal extract -10% Organic copper - 0.6% Stabilizer - 10% Solvent - Q.S.	microfertilizer liquid	31010099	Nil or 5%	Other than those put-up in unit container or put-up in unit container
6	TELNAR	Telnar is a unique micronutrient liquid. Telnar helps plant to achieve better yield. Telnar removes micronutrient deficiency. Telnar helps plant to become more resistant against bacterial pathogenic attack Telnar can be included in IPM programme.	Algal extract 10% Copper- 0.6% Emulsifiers - 05% Stabilizers - 05% Solvent Q.S.	microfertilizer liquid	31010099	Nil or 5%	Other than those put-up in unit container or put-up in unit container
7	VK'S NEMO	VK's NEMO is a specialised microfertilizer liquid. VK's NEMO converts more amino acids in proteins. VK's NEMO on soil application enhances starch production and root development. VK's NEMO also increases plant immunity against nematode infection.	Algal extract 04% Camelia dust 03% Organic copper 03% Organic zinc 0.6% Stabilizer 10% Aqua Q.S.	microfertilizer liquid	31010099	Nil or 5%	Other than those put-up in unit container or put-up in unit container
8	STRESS OUT	Stress Out is an excellent supplement to regular, fertilizer program. Stress Out increases overall yield and quality of plant by increasing nitrite reductase activity and decreases residual nitrite and nitrate. Stress Out helps the plant to sustain against adverse stresses by activating enzymes of antioxidant defence system. Stress Out enhances color, sugar content and firmness of fruits and flowers. Stress	Fungal extract 10% Zinc 0.3% Antifoam agent - 05% Stabiliser -10% Solvent -Q.S.	Organic manure liquid	31010099	Nil or 5%	Other than those put-up in unit container or put-up in unit container



		Out is a residue-free formulation.					
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Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought).

1. As per Customs Tariff Acts, 1975; HSN 3101 cover goods of animal or vegetable Fertilizers, whether or not mixed together or chemically treated; Fertilizers produced by the mixing or chemically treatment of animal or vegetable products.
2. The Products mentioned in enclosed list contain Animal or Seaweed Plant extract, Nitrogenous, pottassic Fertilizers & Micronutrients. It not just grows the plant, but also enhances the immunity of plant against several diseases. 3. The goods manufacture and supplied by us cover under Organic Fertilizers and the same has been certified by the INDOCERT, BIOCERT (institute / authorities) appointed under National programme for organic Production, Department of Commerce, New Delhi.

Therefore, according to us products correctively classify under HSN 3101 or 3105.

M/s. (Alligo Agrovet Pvt Ltd.) formally known as Alligo Horizon Pvt Ltd. Situated at 4025/ A 402/B,4th Floor, ShantaMadhavSankul, Trimbak Road, Tidke Colony, Nashik, Maharashtra, 422008 having GSTIN No. 27AAHCA8881H1Z8.

We are engaged in manufacturing of Organic Fertilizers. We seek clarification on classification and GST rate applicable for our manufacturing goods. The list of goods along with its use, leaflets and products certificate and GST rate applicable according to us already submitted with the application.

We intend to add / submit following in our submission;

1. HSN 3101 cover goods of animal or vegetable Fertilizers, whether or not mixed together or chemically treated; Fertilizers produced by the mixing of chemically treatment of animal or vegetable products or Organic fertilizers.
2. HSN 3105 cover goods of Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium.
3. Our manufacturing products mentioned in enclosed list contain Animal or Seaweed, Plant extract, Nitrogenous, pottassic fertilizers, & Micronutrients. It not just grows the plant, but also enhances the immunity of plant against several diseases. Therefore, products squarely cover under HSN 3101 and 3105.
4. The goods manufacture and supplied by us under brand name and specifically cover under Organic fertilizers and the same has been certified by the INDOCERT, BIOCERT (institute / authorities) appointed under National



programme for organic Production, Department of Commerce, New Delhi. Copy of certificate already submitted with the application.

5. Our products cover under Schedule I (CGST 2:5%) of Serial no. 182 and 182D of Notification No. 01/2017-Central Tax (Rate) dtd: 28-06-2017. The Para of Notification reproduce below for your ready reference;

Notification No. 01/2017-Central Tax (Rate) dtd. 28-06-2017, Schedule I
GST 2.5 per cent. in respect of goods specified in Schedule:-

182,	3101	All goods i.e. animal or vegetable fertilizers or organic fertilizers put up in unit containers and bearing a brand name
182 D	3105	Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers, goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, other than those which are clearly not to be used as fertilizers ;)

6. According to us as mentioned in Para 3 above our products cover under HSN 3101 and 3105 organic fertilizers respectively; and contain Animal or Seaweed Plant extract, Nitrogenous, pottassic fertilizers & Micronutrients. 5% GST rate for branded goods. The detail classification of products already submitted with the application.
 on the basis of above information kindly advice / clarify us classification and GST rate applicable for our manufacturing goods.



CONTENTION – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

Fact 1:- :- Dealer M/s ALLIGO AGROVET PVT LTD, has applied for advance ruling Dealer is seeking clarification on classification and GST rate applicability on the following mentioned(given in table) products which dealer claimed organic fertilizer.

Fact 2:- Definition of organic fertilizer, as per order no. 11-3/83- STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation) New Delhi, date. 25th Sep 1985 The fertilizer (Control) Order 1985.

Definition:- Fertilizer means any Substance used or intended to be used as a fertilizer of the soil and/or crop and specified in Part A of Schedule I and includes a mixture of fertilizer and special mixture of fertilizers provisional fertilizer, customized fertilizer, Bio-fertilizers specified in Schedule II and organic fertilizers specified in Schedule iv.

Schedule – IV
 [see clause 2(h) and
 q)] Part – A

SPECIFICATION OF ORGANIC FERTILISER

1. City compost:

(i)	Moisture, per cent by weight	15.0-25.0
(ii)	Colour	Dark brown to black
(iii)	Odour	Absence of foul odour
(iv)	Particle size	Minimum 90% material should pass through 4.0 mm IS Sieve
(v)	Bulk Density (g/cm^3)	0.7 -0.9
(vi)	Total Organic Carbon, Per cent by weight, Minimum	16.0
(vii)	Total Nitrogen (as N) Per cent by weight, Minimum	0.5
(viii)	Total Phosphates(as P_2O_5) Per cent by weight, Minimum	0.5
(ix)	Total Potash (as K_2O) Per cent by weight, Minimum	1.0
(x)	C:N ratio	20 : 1 or less
(xi)	pH	6.5 – 7.5
(xii)	Conductivity (as dsm^{-1}), Not more than	4.0
(xiii)	Pathogens	Nil
(Xiv)	Heavy metal content, (as mg/Kg) per cent by weight, Maximum	
	Arsenic (as As_2O_3)	10.00
	Cadmium (as Cd)	5.00
	Chromium (as Cr)	50.00
	Copper (as Cu)	300.00
	Mercury (as Hg)	0.15
	Nickel (as Ni)	50.00
	Lead (as Pb)	100.00
	Zinc (as Zn)	1000.00



2

Vermicompost :

(i)	Moisture, per cent by weight	15.0-25.0
(ii)	Colour	Dark brown to black
(iii)	Odour	Absence of foul odour
(iv)	Particle size	Minimum 90% material should pass through 4.0 mm IS Sieve
(v)	Bulk Density (g/cm^3)	0.7 – 0.9
(vi)	Total Organic carbon per cent by weight, Minimum	18.0
(vii)	Total Nitrogen (as N) per cent by weight, Minimum	1.0
(viii)	Total Phosphate (as P_2O_5) per cent by weight, Minimum	1.0
(ix)	Total Potassium (as K_2O) per cent by weight, Minimum	1.0
(x)	Heavy metal content, (as mg/Kg) per cent by weight, Maximum	10.00
	Arsenic (as As_2O_3)	5.00
	Cadmium (as Cd)	50.00
	Chromium (as Cr)	0.15

Mercury (as Hg) Nickel (as Ni)	50.00
Lead(as Pb)	100.00

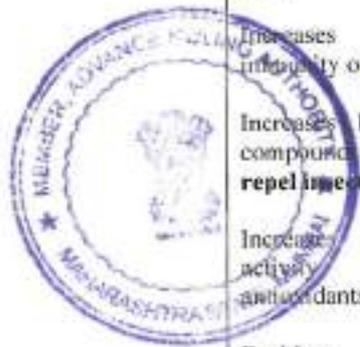
3. Pressmud :

(i) Moisture, per cent by weight, Maximum	15.0
(ii) Total Nitrogen (as N) per cent by weight, Minimum	1.80
(iii) Total Phosphorous(as P ₂ O ₅) per cent by weight, Minimum	2.00
(iv) C:N ratio, Minimum	10:1
(v) Total Potassium (as K ₂ O) per cent by weight, Minimum	1.40
(vi) PH	7.0-8.0
(vii) Heavy metal content, (as mg/Kg) per cent by weight, Maximum	
Arsenic (as As ₂ O ₃)	10.00
Cadmium (as Cd)	5.00
Chromium (as Cr)	50.00
Copper (as Cu)	300.00
Mercury (as Hg)	0.15
Nickel (as Ni)	50.00
Lead (as Pb)	100.00
Zinc (as Zn)	1000.00

NAME	PRODUCT	USE	CONTENT	DEALER CLAIMED HSN-	GST RATE AND DESCRIPTION	REMARK
	STU	Increased lateral and white root development with more nitrogen intake, hence enhanced growth stimulation. Very economical when compared with other brands. Immunity booster. Helps in chelation and uptake of plant nutrients. Less time to harvest. Dose:- 2.0 ml/liter with Aqus-s spreader (0.5 ml/liter) Acre:- 0.5-0.7L/acre	Marine plant extract, potash 0.2%, copper 0.2%, stabilizer 10%	31059090	3105 - 5%for 1. MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. 2 18% for 1. MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG which are clearly not to be used as fertilisers	1. Dealer has classified this product on his website under head GROWTH STIMULANT 2. On the basis of definition of organic fertilizer as per order no. 11-3/83-STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation) New Delhi, date. 25 th Sep 1985 The fertilizer (Control) Order 1985, this is not a city compost, vermin compost or press mud 3 Use-growth enhancer & immunity developer. 4 Dealer has availed exemption under this entry as per Notification No. 12 /2012-Central Excise dated 17.03.2012 under



				310590 - OTHER 31059090 OTHER	entry no 128, chapter 31 where All goods, other than those which are clearly not to be used as fertilisers despite the use is root development and growth stimulator. Packing - 50 lit drum
<p>SI-NINJA INSECT REPELLANT, INSECTICIDE AND IMMUNITY DEVELOPER AGAINST INSECTS</p> <p>Immunity Towards Thrips, Mites, Red Mites, Aphids, Jassids, White Fly & Other Sucking Pest</p> <p>Increases innate immunity of plant.</p> <p>Increases Phenolic compounds which repel insects.</p> <p>Increases enzyme activity & antioxidants.</p> <p>Residue free, Absolutely harmless to Plant.</p>	<p>IFOAM and Biocert certified organic immunity developer against sucking pest. Prolonged effective period when compared to technical pesticides. Multi-target sites, therefore, no chance of insect resistance, Immunity Against:- All types of Mites</p>	<p>Algae extract 10%, organic copper 0.03%, Zinc 0.9% stabilizer 10%, Aqua S 0.5%</p>	31059090	<p>3105 - 5% for 1. MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. 2 18% for 1 MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF HE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. which are clearly not to be used as fertilisers 310590 - OTHER 31059090 - OTHER</p>	<p>1 Dealer has classified this product on his website under head IMMUNITY AGAINST SUCKING PEST</p> <p>2. On the basis of definition of organic fertilizer as per order no. 11-3/83-STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation) New Delhi, date. 25th Sep 1985 The fertilizer (Control) Order 1985, this is not a city compost, vermin compost or press mud</p> <p>3 Use against sucking pest.</p> <p>4 Dealer has availed exemption under this entry as per Notification No. 12 /2012-Central Excise dated 17.03.2012 under entry no 128, chapter 31 where All goods, other than those which are clearly not to be used as fertilisers despite of using as immunity developer against all types of mites. Packing - 50 Lit drum</p>
<p>TELNAR</p> <p>Immunity Towards Xanthomonas Axonopodis</p>	<p>Binds to peptidoglycan on the cell wall altering osmotic pressure</p>	<p>Algae extract 10%, copper 0.6%, Emulsifier 0.5%,</p>	31010099	<p>310100 - Animal or vegetable fertilisers, whether or not mixed together or</p>	<p>1 Dealer has classified this product on his website under head IMMUNITY DEVELOPER</p>



<p>Punicea (oily Spot Blight), Xanthomonas Botrytis, campestris, Erwinia. X. Initiates intracellular free radical formation which inhibits bacteria. Absolutely harm-free to crop. Not harmful for honeybees and beneficial insects. Stimulates cytokinine synthesis resulting in excellent plant growth after bacterial attack.</p>	<p>resulting in sudden death of target bacteria of spore. Initiates intracellular free radical formation resulting in DNA and mRNA damage. Stimulates cytokinine synthesis resulting in excellent plant growth after bacterial attack. Effective against distrous starins. Dosage:- 2.0 ml/liter with Aqua-s spreader (0.5 ml/liter) Acre:- 0.5-0.7L/acre</p>	<p>stabilizer 0.5%, Aqua S 0.5%</p>		<p>chemically treated, fertilisers produced by mixing or chemical treatment of annal vegetable products. 31010099 OTHER</p>	<p>AGAINST BACTERIAL PATHOGENES)</p> <p>2.On the basis of definition of organic fertilizer as per order no. 11-3/83-STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation)New Delhi, date. 25th Sep 1985 The fertilizer (Control) Order 1985, this is not a city compost, vermin compost or press mud</p> <p>3 Use - Antibacterial and cytokinesis resulting in excellent plant growth Packing - 50 lit</p>
<p>QPRAX</p> <p>Immunity Against Downy Mildew, Pythium Rhizoctonia, Fusarium Fire Blight, Powdery Mildew, & other fungal diseases. Imparts resistance to plants to fight against fungal infections Helps in overall development of plant. Harm-free to crop. Not harmful for honeybees and other beneficial insects.</p>	<p>Broad-Spectrum, IFOAM certified, MPKV tested and patented organic immunity developer against fungus. Initiates intracellular free radical formation resulting in DNA and mRNA damage. Shows killer effect on surface as well as intracellular fungi. Residue-free, absolutely harm-free to crop. Equally effective against soil borne fungi and oomycete fungal infection. Dosage:- 2.0 ml/liter with Aqua-s spreader (0.5 ml / liter) Acre:- 0.5-0.7 L / acre</p>	<p>Algae extract 10%, Organic copper 0.6%, stabilizer 10%, Aqua S 0.5%</p>	<p>31039090</p>	<p>3105 - 5% for 1 MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF HE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. 2 18% for 1 MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF HE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10</p>	<p>1 Dealer has classified this product on his website under head IMMUNITY AGAINST FUNGUS</p> <p>2.On the basis of definition of organic fertilizer as per order no. 11-3/83-STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation)New Delhi, date. 25th Sep 1985 The fertilizer (Control) Order 1985, this is not a city compost, vermin compost or press mud</p> <p>3 Use as immunity developer Certified AS IMMUNITY DEVELOPER by braod spectrum IFOAM AUTHORITY</p> <p>4. Packing 50 lit</p>



				KG. which are clearly not to be used as fertilisers 310590 - OTHER 31059090 - OTHER	
<p>STRESS OUT</p> <p>Is an excellent supplement to regular fertilizer program enhancing color, sugar content, size, etc.</p> <p>Increases overall yield & quality of plant by increasing nitrite reductase activity and decreases residues of nitrite & nitrate.</p> <p>Helps plant to sustain against adverse stresses by activating enzymes.</p> <p>Increases plant tolerance from biotic & abiotic stresses like High salinity, high temperature, and herbicide treatment.</p>	<p>Certified Organic plant growth promoting supplement, improving metabolism of plant, Immunity booster</p> <p>Effective in stress conditions due to water temperature, alkalinity. Etc. Significantly increases size. Weight shining and plant immunity.</p> <p>Dose:- 2.0 ml/liter with Aqua-s spreader (0.5 ml / liter)</p> <p>Acre:- 0.5-0.7 L / acre</p>	<p>Fungal extract 10%, Zinc 0.3%, Antifoam agent 0.5%, Aqua S 0.5%</p>	31059090	<p>3105 - 5%for 1.MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF HE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. 2 18% for 1.MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF HE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG which are clearly not to be used as fertilisers 310590 - OTHER 31059090 - OTHER</p>	<p>1 Dealer has classified this product on his website under head PLANT GROWTH REGULATOR</p> <p>2.On the basis of definition of organic fertilizer as per order no. 11-3/83-STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation) New Delhi, date, 25th Sep 1985 The fertilizer (Control) Order 1985, this is not a city compost, vermin compost or press mud</p> <p>3 Use as growth promoting supplement</p> <p>4 Packing - 50 lit drum</p>
<p>SHYAM SAMRUDDHI</p>	<p>Organic Nitrogen source 10% Organic phosphorous source 1%, Organic potash source 1.50%, Organic sulphur 12%, Humic acid 4.79%, Glutamic acid 4.65%, Methionine 0.4%, Phenyalanine 0.4%, Lysine 0.32 %,</p>	<p>Act as a excellent soil conditioner</p>	31059090	<p>3105 - 5%for 1.MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF HE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. 2 18% for 1.MINERAL OR CHEMICAL</p>	<p>USE - Improving white root development, enhancing crop quality, vitality and texture</p> <p>Packing - 50 kg.</p>





				FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. which are clearly not to be used as fertilisers	
VKS NEMO Immunity Towards Root knot nematode, Rhabditida, Dorylaimida, Triplonchida, etc. Quick result around 48 to 72 hours due to induced oxidative stress. Node readable. Slow release for prolonged action. Enriches soil nourishment and macro element concentration. Not harmful for beneficial soil bacteria and fungi.	Algal extract 10%, Zinc 0.3% Aqua S 0.5%, stabilizer 10%	No chance of nematode resistance, Can be used as IPM component	31059090	3105 - 5% for 1.MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. 2 18% for 1.MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. which are clearly not to be used as fertilisers	1 Dealer has classified this product on his website under head IMMUNITY DEVELOPER AGAINST NEMATODES (SUCKING PEST) 2.On the basis of definition of organic fertilizer as per order no. 11-3/83-STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation) New Delhi, date. 25 th Sep 1985 The fertilizer (Control) Order 1985, this is not a city compost, vermin compost or press mud 3.Dealer has availed exemption under this entry as per Notification No. 12 /2012-Central Excise dated 17.03.2012 under entry no 128, chapter 31 where All goods, other than those which are clearly not to be used as fertilisers. 3.Main use - Nematode resistance Packing - 50 lit
SJ ERASER Immunity Towards Caterpillar,	Algae extract 10%, Nitrogen 0.4%, potash 0.2%	Certified broad spectrum organic immunity	31059090	3105 - 5%for 1.MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE	1 Dealer has classified this product on his website under head IMMUNITY

<p>Spodoptera, Helicoverpa, Larvae & Other Chewing pest.</p> <p>Acts as repellent towards larvae with quick result around 48 to 72 hours.</p> <p>Overall control and targets all larvae developmental stages.</p> <p>Increases carbohydrate utilization rate of plant.</p>	<p>stabilizer 10% aqa S</p>	<p>developer against chewing pest. Overall protection as targets all larval stages</p>	<p>FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. 2.18% for 1. MINERAL OR CHEMICAL FERTILISERS CONTAINING TWO OR THREE OF THE FERTILISING ELEMENTS, NITROGEN, PHOSPHOROUS AND POTASSIUM, OTHER FERTILISERS, GOODS OF THIS CHAPTER IN TABLETS OR SIMILAR FORMS OR IN PACKAGES OF GROSS WEIGHT NOT EXCEEDING 10 KG. which are clearly not to be used as fertilisers</p>	<p>AGAINST CHEWING PEST</p> <p>2. On the basis of definition of organic fertilizer as per order no. 11-3/83-STU, Govt of India ministry agriculture and rural development (Department of Agriculture and co-operation) New Delhi, date. 25th Sep 1985 The fertilizer (Control) Order 1985, this is not a city compost, vermin compost or press mud</p> <p>Dealer has availed exemption under this entry as per Notification No. 12 /2012-Central Excise dated 17.03.2012 under entry no 128, chapter 31 where All goods, other than those which are clearly not to be used as fertilisers. rate</p> <p>Main use - immunity developer Packing - 50 Lit</p>
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Also in this regard, when asked to dealer about how to identify the product use for plant, he stated, specifications of the plant disease, or requirement should be specify to give proper product to the plant.

Additional submissions on 03.08.2019

Findings:

Autus-

1. This product is certified as an organic product by an accredited certifying agency. It is not mentioned anywhere that it is a organic fertilizer.
2. Salient features mentioned for this product shows that it helps in white root promotion, growth stimulation uptake of plant nutrient. This doesn't seems to have plant growth regulator effect such as synthetic (inorganic PGR) hormones . This product may not feet in the HSN category 3808.
3. Flow chart of manufacturing process also shows that elements potassium and copper are used as input.

4. This shows that the product seems to be organic fertilizer and may fit in that HSN category 3105. Excluding, this entry contain goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, which are clearly not to be used as fertilizers

Shyam Samruddhi-

1. This product is certified as organic product by an accredited certifying agency. It is not mentioned anywhere that it is a organic fertilizer.
2. Salient features mentioned for this product shows that it is a soil conditioner (granular product) and contains the elements such as N, P, K and other elements. This may be the claim that it can be categorised as organic fertilizer. This doesn't seems to contain synthetic (inorganic) growth regulator such as Gibbrelic acid or Indole acetic acid. This product may feet in the HSN category 3101(5%) .
3. Flow chart of manufacturing process also shows that nutritional (micronutrient) elements are used as input.
5. This shows that the product seems to be organic fertilizer and may fit in that HSN category 3105. Excluding, this entry contain goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, which are clearly not to be used as fertilizers

SJ-nin a-

1. This product is certified as organic product by an accredited certifying agency. It is not mentioned anywhere that it is an organic fertilizer.
2. Salient features mentioned for this product shows that this product develop immunity against sucking pest. Further it also claims nervous system damage of pest within 48 to 72 hours. Graphics also indicates potential pesticidal effect. This shows product may feet in the HSN category 3808 (18%).
3. Flow chart of manufacturing process does not show any fertilizer claim.
4. This shows that the product seems to be an organic pesticide and may fit in that HSN category 3808 (18%) rather than 3105.

SJ-eraser-

1. This product is certified as organic product by an accredited certifying agency. It is not mentioned anywhere that it is an organic fertilizer.
2. Salient features mentioned for this product shows that this product develop immunity against several pest. Further it also claims to have protection against all larval stages and pesticidal (larvicide) results can be achieved within 48 to 72 hours. Graphics also indicates



potential pesticidal effect especially mode of action and effect against particular insects in larval stages. This shows product may fit in the HSN category 3808 (18%).

3. Flow chart of manufacturing process does not show any fertilizer claim.
4. This shows that the product seems to be organic pesticide and may fit in that HSN category 3808 (18%) rather than 3105.

Q-prax-

1. This product is certified as organic product by an accredited certifying agency. It is not mentioned anywhere that it is a organic fertilizer.
2. Salient features mentioned for this product shows that this product develop immunity against many fungus. Further it also claims to have damage to DNA and RNA of fungus and have destructive action against surface and intracellular fungus. Graphics also indicates potential pesticidal (fungicidal) effect especially mode of action and effect against many fungi. This shows product may fit in the HSN category 3808 (18%).
3. Flow chart of manufacturing process does not show any fertilizer claim.
4. This shows that the product seems organic pesticide and may fit in that HSN category 3808(18%) rather than 3105.

Telnar-

This product is certified as organic product by an accredited certifying agency. It is not mentioned anywhere that it is an organic fertilizer.

2. Salient features mentioned for this product shows that this product develop immunity against many bacteria. Further it also claims to have damage to DNA and RNA of bacteria and have destructive action against many bacteria. Graphics also indicates potential pesticidal (bactericidal) effect especially mode of action and effect against many disastrous bacteria. This shows product may fit in the HSN category 3808(18%).
3. Flow chart of manufacturing process does not show any fertilizer claim.
4. This shows that the product seems to be organic pesticide and may fit in that HSN category 3808(18%) rather than 3105.

VK's Nemo-

1. This product is certified as organic product by an accredited certifying agency. It is not mentioned anywhere that it is an organic fertilizer.
2. Salient features mentioned for this product shows that this product develop immunity against nematode, a soil pest. Further it also claims to have results against nematode within 48 to 72 hours that is an indication of destructive action against nematode. Graphics also indicates potential pesticidal (nematicidal) effect especially mode of action and effect against nematode. This shows product may fit in the HSN category 3808.



3. Flow chart of manufacturing process does not show any fertilizer claim.
4. Though this product also have many soil nutritional features, strong claim is immunity development against nematodes and may be pesticidal effect against nematode by inducing oxidative stress.
5. This shows that the product seems to be organic pesticide and may fit in that HSN category 3808(18%) rather than 3105.

Stress-out-

1. This product is certified as organic product by an accredited certifying agency. It is not mentioned anywhere that it is an organic fertilizer.
2. Salient features mentioned for this product shows that it helps in plant growth promotion and adding value to increase yield and quality produce. This doesn't seems to have plant growth regulator effect such as synthetic (inorganic PGR) hormones . This product may not feet in the HSN category 3808.
3. Flow chart of manufacturing process also shows that element like silicates are used as input.
4. It is not clear for this product how it can fit into manure or fertilizer category.

This shows that the product seems to be organic plant growth stimulant or may be organic plant growth regulator and may fit in HSN category 38089340 (PLANT GROWTH REGULATORS).

Overall comment:

The products Autus and Shyam samruddhi seems to be plant growth promoters and may fit in 3101 or 3105 and it does not have any pesticidal claim nor any synthetic plant growth regulator (PGR) is used in the manufacturing process. However, the product Stress-out does not seems to be clearly comes in the category of manure or fertilizer. Therefore the product Stress-out may fit into HSN category 38089340 (PLANT GROWTH REGULATORS).

Other products such as SJ-ninja, SJ-eraser, Qprax, Telnar and VK's Nemo seems to have potential pesticidal effect in either way. All these five products may fit in the HSN category of 3808 (18%) irrespective of their scope of organic certificate.

However earlier opinion by the nodal officer should be taken into consideration before giving final decision. The opinion suggests that all above products can be classified under head 38089400- DISINFECTANTS, 38089340 (PLANT GROWTH REGULATORS) and 38089910 (PESTICIDES NOT ELSEWHERE SPECIFIED OR INCLUDED).

05. HEARING

The Preliminary hearing in the matter was held on 24.04.2019, Sh. Harshad S. Gholap G & S. T Practitioner and Sh. Vivek Kapadnis, Director appeared and requested for admission of

application as per details in their application. The Jurisdictional Officer Sh. Vaishali Chaudhari, State Tax Officer (NAS-VAT-C-018) Nasik appeared and submitted written submissions.

The application was admitted and called for final hearing on 03.08.2019, Sh. Harshad S. Gholap G & S. T Practitioner and Sh. Vivek Kapadnis appeared made oral and written submissions. The Jurisdictional Officer Sh. Narendra K. Nerkar, State Tax Officer (NAS-VAT-C-018) Nasik appeared and made written submissions.

06. OBSERVATIONS

We have gone through the facts of the case and the submissions made by the Applicant and the Department. The issue put before us is in respect of classification and GST rate applicability in case of eight goods manufactured by the applicant. Few facts relevant for the present purpose those are as below.



Applicant is engaged in manufacture of various Agro Chemicals claimed as Organic Fertilizers. The product mentioned in the application said to have contained Animal or Seaweed plant extract, Nitrogenous, Potassic Fertilizers and Micro Nutrients. The products according to the applicant not just grows the plant but also enhances immunity of plant against several diseases. As per applicant, the goods manufactured and supplied by them are organic fertilizers which have been certified by the Indocert, Biocert Institute / Authorities appointed under National Programme for Organic production, Department of Commerce, New Delhi. According to the applicant all the products mentioned in the application are classifiable under HSN 3101 or 3105. We find that, applicant have different lines of arguments. The first line of argument is that, the products are organic fertilizer and exempt from payment of tax. The second line of argument to buttress first line of argument is that, the products do not fall under the category of Pesticides. Applicant submit that, their products are not of the category of pesticides as they are having fertilizing element that promote health plant growth and plant immunity. The product manufactured by the applicant have organic extract of plant an animal origin i.e. products have marine – Seaweed extract, plant extract. Applicant further submits that, the product manufactured by them are organic fertilizer by functions and also having fertilizing element. Further, they are not to be governed under Fertilizer Control Order, 1985 as well as Insecticide Act, 1968. Further line of argument of the applicant is that, the products are not covered under the expression plant growth regulator (PGR).

Before determining the correct classification of the products in question, it is necessary to analyze characteristics of *fertilizer, organic fertilizer, plant growth regulator, insecticides and pesticides* as well as those of the *products* being manufactured by the Applicant in order to decide whether the products are fertilizers as claimed by the Applicant or otherwise..

As the above expressions have not been defined in the GST Law or the notification issued thereunder, we refer to meanings assigned to them in the dictionary. **Fertiliser:** The term "fertilizer" means a material containing one or more of the recognized plant nutrients such as Nitrogen, Phosphorous and Potassium, Calcium, Sulphur, Iron, Magnesium, Zinc etc., which are used primarily for their plant nutrient content. Fertilizers are derived from a wide variety of natural and manufactured materials and are sold in solid, liquid and gaseous form (anhydrous ammonia). These materials are designed for use or claimed to have value in promoting plant growth or increasing plant-available nutrient levels in soils.

Organic Fertilizers: The word organic applied to fertilizers usually means that the nutrients contained in the product are derived solely from the remains of a once-living organism. Thus organic fertilizers are derived from animal matter (animal wastes from meat processing, animal excreta (manure) or vegetable matter (e.g. compost and crop residues) which are different from manufactured fertilizers synthesized from various chemicals. In general, organic fertilizers act much like the slow-release fertilizers which release nutrients over an extended period of time whereas synthetic fertilizers release required chemicals quickly on their application. The Common characteristic of both organic and manufactured fertilizers is that they contain nutrients that promote plant growth.

Plant Growth Regulators:

Plant growth regulators (also called plant hormones) are numerous chemical substances that profoundly influence the growth and differentiation of plant cells, tissues and organs. Plant growth regulator function as chemical messengers for intercellular communication. There are currently five recognized groups of plant hormones: auxins, gibberellins, cytokinins, abscisic acid (ABA) and ethylene. They work together coordinating the growth and development of cells. Ethylene is mainly involved in abscission and flower seescence in plants and is rarely used in plant tissue culture. In addition to the five principal growth regulators, two other groups sometimes appear to be active in regulating plant growth, the brassinosteroids and polyamines. Auxins stimulate cell elongation and influence a host of other developmental responses, such as root initiation, vascular differentiation; Cytokinins are able to stimulate cell division and induce shoot bud formation. They usually act as antagonists to auxins. Cytoknins often inhibit embryogenesis and root induction; Gibberellins: The main effect of gibberellins in plants is to cause stem elongation and flowering. They are also prominently involved in mobilization of endosperm reserves during early embryo growth and seed germination; Abscisic acid (ABA) in plants is a terpenoid involved primarily in regulating seed germination, inducing storage protein synthesis and modulating water stress. In plant tissue culture, it is used to help somatic embryogenesis, particularly during maturation and germination; Ethylene is a simple gaseous hydrocarbon with the chemical

structure $H_2C=CH_2$. Ethylene is apparently not required for normal vegetative growth. However, it can have a significant impact on development of root and shoots. Usually, ethylene is not used in plant tissue culture.

Difference between Fertilizers and Plant Growth Regulators:

The fertilizers provide chemical elements which are essential to the plant for tissue *growth* whereas Plant Growth Regulators are chemical substances that are required in small quantities but profoundly influence *differentiation* of plant cells, tissues and organs. Thus the plant regulators are triggers that decide the timing of tissue differentiation into shoots, roots, branches, leaves, flowers and seeds in their life cycle just as hormones decide the timing of appearance and maturation of various organs in the animal life cycle.

Pest and Pesticide: A pest is any living organism, whether animal, plant or fungus, which is invasive or troublesome to plants or animals, human or human concerns, livestock, or human structures. Pesticide the substance that kills the pests.

Insecticide: As per Insecticides Act, 1968, the term Insecticides has been defined as - substances which are used to kill insects.^[1] They include ovicides and larvicides used against insect eggs and larvae, respectively.

Keeping in mind the discussion made herein above with respect to organic fertilizers, plant growth regulators, insecticides and pesticides, we shall now move on to discuss each product separately and further to classify them accordingly.

Product: AUTUS

As per applicant's contention Autus is an organic manure liquid that enhances nitrogen uptake and photosynthesis. Further, the product increases lateral white root population improving rate of absorption of fertilizers helping it to withstand stress condition. Further, the product contains Potash and Copper. We find that, the product is certified as an organic product by an accredited certifying agency. However, there is no finding by the authority that the product is an organic fertilizer. However, the product literature available on Website of the applicant and also submitted in the hearing suggest that, the product is organic plant growth stimulant. Further from the said literature and as per the mode of action with respect to effect on grape growth, the product influences TCA cycle (krebe cycle). Plant growth regulators are organic compound other than nutrients that effect the physiological process of growth and development in plants when applied in low concentration. As mentioned earlier, they are either natural or synthetic compounds that are applied directly to a target plant to alter its life processes or its structure to improve quality, increase yields etc. Thus, Autus satisfy all the ingredients of plant growth regulators (PGR) and therefore classifiable under Tariff Heading 3808 with applicable GST @18%.

Product : SHYAM SAMRUDDHI :

Applicant submits that, the product is combination of organic N,P,K,S and Amino Fertilizers. The said product provides micro elements like Zn, Fe, Mn, Boron in bioavailable form. The product also acts as soil conditioner and maintain soil moisture for longer period.

We find that, the plant nutrient such as N, P, K are derived from organic source. The product is also certified by the Accredited Certified Agency as Organic Products. The product does not contain any other growth regulator as such the product is Organic Fertilizer classifiable under HSN-3105 and liable to GST @5% as per Sr. No. 182D of Schedule-1 of Notification No.1/2017-CT (Rate) dated 28.06.2017.

Product: SJ-NINJA :

Applicant submit that, the product is algae extract containing organic copper zinc etc. Applicant further submit that, the product is IFOAM and Biocert certified organic immunity developer against insects. However, from the perusal of documents submitted in this proceeding, the product is described (Advertised) as Broad Spectrum Organic Miticide. The said product stimulates salt loss of target insect pest resulting in decreasing in sucking habit of the pest. Further, the product brings about nervous system damage to the pest within 48 to 78 hours. The product eradicate most common insect pest including sucking pest, mites whitefly and aphides. From the mode of action and the salient feature of the products we find that the product satisfy all the attributes of an insecticide and hence the produce is an insecticides covered by HSN 3808 liable to GST @18%.

Product: SJ- ERASER :

With respect to this product, applicant submit that, the product is a unique micronutrient formulation that gives result in 48 to 78 hours. The product is algal extract with nitrogen potash and is a micronutrient liquid formulation. However, from the product literature we see that, the product act as a contact and systemic larvicide. Further literature state that, the product controls chewing pest larvae, caterpillar, spodoptera, helioverpa etc. Under similar situation Tribunal in case of Indian Oil Corporation V/s. Commissioner-2002 (145) ELT-305 (Tri-Delhi) held that, Malariya Larvicide Oil (MLO) is classifiable under sub-heading 380810 of CTA and not under sub-heading 271090 as Petroleum products. From the use of the product we have no doubt to conclude that the product is an organic insecticide falls under HSN code 3808. Further we observe that presence of nutrient in small quantity will not alter the essential character of the product as an insecticide liable to GST @18%..

Product OPRAX :

Applicant submit that, the product is liquid micro fertilizer that promotes carbohydrates and protein formation besides lignin synthesis and photosynthesis of plant. The product is algal extract containing small quantity of copper. We find that, the product is certified as organic



product by the competent authority. However, there is no mention it as organic fertilizer. Applicant has explained mode of action of the product that inhibit most fungal infection by binding to cell wall of target and killing the cell by changing its permeability an intracellular free radical generation damaging DNA and mRNA of target. It is revealed from content of the literature that the product is advertised as broad spectrum organic fungicide effective against plant fungi and soil born fungi. The product is effective against Downey mildew, Pythium fusarium, Rust, fire blight, powdery mildew etc. From the salient features of the product as mentioned above we have no doubt to consider the product as Organic Fungicide falling under HSN-3808 liable to GST @18%.

Product: TELNAR :

Applicant submit that, Telnar is a micro fertilizer liquid intended to achieve better yield. We find that, the product is certified as Organic product by the competent agency. However, there is no mention that, the product is an Organic Fertilizer. However, we find from the mode of action that the product bind to peptidoglycan on the cell wall altering osmotic pressure resulting sudden death of target bacteria or spore. Further the product causes damage to DNA and mRNA. The product show clear effect on gram positive as well as gram negative pathogenic bacteria. The product is used against target bacteria such as Xanthomonos axomopodis punicae (oily spot blight), X. botrytis, X. campestris. The product is advertised by the appellant as broad spectrum organic bactericide. In this view of the matter we have no doubt that the product is Organic bactericide- Pesticide covered under Tariff Heading 3808 liable to GST @18%.

Product: VK's NEMO :

With respect to this product appellant contend that, the product is micro fertilizer liquid obtained from algal extract containing organic copper and organic zinc. Appellant further submit that, on application to soil it enhances starch production and root development. However, from the product literature and its content made available to us we find that, the product find application in the form of drenching of soil to arrest the nematodes incidence. The product is also used as one of the component of the integrated pest management (IPM). From the literature and the use of product as stated herein we have no doubt that the product is a nematocides covered under Tariff Heading 3808 liable to GST @18%.

Product: STRESSOUT:

Applicant submit that the product is an excellent supplement to regular fertilizer programme. It is a fungal extract that contains zinc and used as organic manure liquid. From the product literature made available to us we find that, the product is promoted as organic plant growth promoting supplement with following silent features. It induces glycolysis and TCA cycle resulting in improvement of plant metabolism, elicit proline, valine, cysteine, tryptophan and

glutamic acid biosynthesis. It enhances colour, sugar content and firmness of roots and flowers. It increases plant tolerance from biotic and abiotic stress like high temperature, alkalinity and salinity. The product is categorically mentioned as growth promoter. Having regards to publicity literature, its content, the mode of action and discussion held herein above with respect to plant growth regulators we find no difficulty in classifying the product as PGR that falls under HSN Code 3808 liable to GST @18%.

While classifying the products we have laid emphasis on the content of the product literature made available by the appellant and the jurisdictional officer. The question that arises whether we can rely upon the literature published by the appellant describing the product as a tool for classification of the product. For this proposition of law we find support to the tool used by us in classification of the products in the judgment delivered by Hon. Bombay High Court in case of M/s. Kulkarni Black and Decker Ltd. v/s. Union of India, 1992 (57 ELT 401 BOM). The relevant para of the said judgment is produced herein below.

"3. The first submission urged by Shri Hidayatullah is that the Assistant Collector was in error in rejecting the claim of the Company by relying upon the personal observations made during the visit to the factory. It was urged that the personal observations of the Officer cannot determine the classification of the goods and in support of the submission reference was made to the decision of the Single Judge reported in 1981 (8) ELT 432 (Bcm.) Advani Oerlikon Ltd. and Another v. Union of India and Others. The submission is not correct. It is undoubtedly true that the Officer cannot base his conclusion solely upon the observations made during visit to the factory as normally, the Officer adjudicating the case is not necessarily expert in the process of manufacture. In the present case, the Assistant Collector has passed order of adjudication not merely on the strength of observations made during the visit but on several other circumstances. Indeed, we appreciate the action of the Assistant Collector in visiting the factory to ascertain, before determination, as to what is the exact process of manufacture. The Assistant Collector has cumulatively taken into consideration the various circumstances to reach the conclusion that the disputed article manufactured by the Company is liable to excise duty under Tariff Item No. 30 of the First Schedule. Shri Hidayatullah then submitted that the Assistant Collector was in error in relying upon the irrelevant material like pamphlets published by the Company describing the article as motors. It was contended that the advertisement, publicity material and pamphlets issued by the manufacturer are irrelevant material for deciding the classification of the goods and in support of the submission reference was made to the decision reported in 1985 (20) ELT 70 [Leukoplast (India) Private Ltd. and Others v. Union of India and Others]. We are unable to accede to the submission that the pamphlets issued by the Company is irrelevant material. The classification cannot be based only upon what is stated in the pamphlets but the contents of the



pamphlets are certainly one of the relevant circumstance which can be taken into consideration while determining classification."

Furthermore, we have also observed that presence of micronutrient in the product manufactured by the applicant will not alter the essential character vis-a-vis classification of the product under HSN. For this proposition of law also we find support in the judgment of the Hon. Supreme Court in case Ranadey Micronutrients Pvt. Ltd., 1996 (87) ELT 19 (SC) that overruled the decision of Tribunal in the said case (Ranadey Micronutrients Pvt. Ltd. Vs Collector -1995 (75) ELT 139 Tribunal).

07. In view of the extensive deliberations as held hereinabove, 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- 02/2019-20/B- 101 Mumbai, dt. 26/08/2019

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

Question: - Classification of goods and GST rate applicability in the case of goods manufactured by us (list enclosed) ?

Answer :- Products namely AUTUS, SJ-NINJA, SJ-ERASER, OPRAX, TELNAR, VK's NEMO AND STRESSOUT are classifiable under HSN Code-3808 and liable to GST @18% (SGST CGST 9% as per Notification-1 of 2017-CT (Rate) dated 28.06.2017 each respectively. The product SHYAM SAMRUDDHI is an organic fertilizer classifiable under HSN-3105 and liable to GST @5% as per Sr. No.182D of Schedule-I of Notification-1 of 2017-CT (Rate) dated 28.06.2017.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY

[Signature]
MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

- 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.