

Preparation of Gutka at Pan Shop for sale not eligible for Composition Scheme: The AAR, Madhya Pradesh

Fact of the Case

The applicant, Gulab Singh is proposed to open a new business venture of PAN SHOP. The Business model of PAN SHOP would be selling Pan Masala, Tobacco Products, aerated Drinks etc. There will not be any kind of manufacturing of these products. It merely acts as a trader. Whether the composition scheme is available to assessee if the turnover does not exceed Rs. 1,50,00,000 in the preceding financial year.

The appellant has sought the advance ruling on

- what should be the HSN Code, the new business would be required to take at the time of registration under the composition scheme, because at the time of registration under the composition scheme. GSTN Portal is not allowing the assessee to take 11SN code of Pan Masala and Tobacco products.

Decision of the Case

The Coram ruled that the list of goods to be sold from the Pan shop include all kinds of goods that are normally bought from a Pan Shop. Accordingly, one of the goods that shall be sold from the applicant's Pan Shop is Gutka containing Tobacco or otherwise. The Gutka is a preparation of betel nuts and any one or more of lime, katha (catechu) and tobacco whether or not containing any other ingredient, such as cardamom, copra or menthol, which is same as Pan Masala discussed supra. In a Pan shop the seller also generally makes a product akin to Gutka themselves by mixing betel nuts, lime, katha and tobacco containing or not containing other ingredients are sold which amounts to manufacture of Gutka. Preparation of Gutka in the Pan Shop is akin to manufacture on account of the process of preparation being that of mixing of different bought out ingredients and the resultant product having a distinct name and use. Thus the preparation of Gutka at the Pan Shop for sale is covered in the Second Proviso of Notification No. 14/2019 CT in the Table given in Notification No. 14/2019 CT both Pan Masala and goods covered under Chapter 24 are listed as goods for which composition cannot be obtained.

The Madhya Pradesh Authority of Advance Ruling (AAR) ruled that preparation of Gutka at Pan Shop for sale is not eligible for the Composition Scheme.