

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015**

Before Sri Binod Kumar, I.A.S., Commissioner, Sales Tax, West Bengal

In the matter of :

An application filed under section 102 of West Bengal Value Added Tax Act, 2003, read with rule 202 of the West Bengal Value Added Tax Rules, 2005.

- And -

In the matter of

Case No: 24X/PRO/VAT/15/265

- And -

In the matter of :

M/s Glaxosmithkline Consumer Healthcare Ltd., carrying on business under the same trade name at Unit No. 208, 2nd Floor, Ecospace Campus B (3B), New Town, Rajarhat, North 24 Parganas, Kolkata-700156, holding VAT TIN 19200152065

Present for the applicant: Ms. Preeti Goyal, Employee and Sri Sandeep Kothari, CA, authorised representatives of the applicant Company

Sri Adesh Kumar, Additional Commissioner, Commercial Taxes/ Sales Tax and Public Relations Officer (PRO) of the Directorate of Commercial Taxes, W.B., was also present to assist in the matter

Date of order: 06.01.2016

This is an application filed by M/s Glaxosmithkline Consumer Healthcare Ltd., carrying on business under the same trade name, and holding VAT TIN No. 19200152065 (hereinafter referred to as the applicant) under section 102 of the West Bengal Value Added Tax Act, 2003 (hereinafter referred to as the VAT Act). The applicant has raised a question for determination of the rate of tax applicable to the sale of 'Rolled Oats' in West Bengal.

The applicant has duly affirmed that the dispute has not arisen out of any order passed by any authority and that he has not filed any application before any Court, Tribunal, Board or any authority under the VAT Act, praying for determination of a dispute of similar nature referred to in this application.

Ms. Preti Goyal, Manager Taxation of the applicant, submitted that 'Rolled Oats' are made after cutting, sorting, de-hulling, milling, steaming and flaking the raw oats.

The rolled oats are steamed, rolled and flaked so that they can be cooked within 3 to 5 minutes by adding milk or water and consumed as “porridge”.

Sri Sandeep Kothari, CA, and authorised representative of the applicant submitted that ‘Porridge’ is enumerated under serial No. 58 of Part C of Schedule C under the West Bengal Value Added Tax Act, 2003. He further submitted that the term ‘Porridge’ has not been defined under the VAT Act or rules framed thereunder and hence it has to be understood by applying the common parlance meaning.

The applicant also made a written submission pointing out that Oxford English Dictionary defines porridge as a ‘dish containing oatmeal or another meal or cereal boiled in water or milk’. In Collins English Dictionary for Advanced Learners, porridge has been defined as ‘a thick sticky food made from oats cooked in water or milk and eaten hot, especially for breakfast’. According to New Webster’s Dictionary and Thesaurus ‘porridge is a soft food made by boiling oatmeal or other cereal substance in water or milk’.

Ms. Goyal also produced label used for packaging of the item in question showing the name of the product as ‘Horlicks Oats’ and mentioning ‘Suggested Preparation- Porridge’.

Sri Adesh Kumar, PRO, stated that entry at serial No. 58 of Part I of Schedule C of the VAT Act is as under:

Serial No.	Description of goods	Conditions and Exceptions
58.	Porridge, cottage cheese and <i>paneer</i> .	

The matter is examined and submissions made by the applicant through authorised representatives were heard and written statement and documents submitted by the applicant, were perused.

It is true that ‘Porridge’ has not been defined under the VAT Act or rules framed thereunder so it has to be understood by applying the meaning as it is understood in

common parlance at business place. The term 'Porridge' is very often used for oat porridge and in addition wheat or barley may also be used for preparing porridge.

The item in question that is 'Rolled Oats' is made from oats which are processed, including steaming, so that it can be consumed simply by boiling in water or milk for a few minutes. 'Rolled Oats' dealt in by the applicant is partly-cooked, ready to eat oat-meal which is commonly known as porridge and specifically as oat porridge.

In view of the foregoing discussion 'Rolled Oats' is held to be included under the item "Porridge" and rate of tax applicable to its sale is determined at 5%, vide entry at serial No. 58 of Part I of Schedule C appended to the VAT Act.

Application filed under section 102 in the instant case stands disposed of as above.
Send a copy of this order to the applicant for information.

Sd/- 6/1/16
(Binod Kumar)
Commissioner,
Sales Tax, West Bengal