

**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE  
RULINGS UNDER SECTION 60 OF THE KARNATAKA VALUE ADDED TAX ACT,  
2003 READ WITH RULE 165 OF THE KARNATAKA VALUE ADDED TAX RULES,  
2005**

- PRESENT :
- (1) M.D.Jain  
Additional Commissioner of Commercial Taxes  
(Head Quarters-I), Bangalore and Chairman.
  - (2) H.D.Arunkumar,  
Additional Commissioner of Commercial Taxes  
(Policy & Law), Bangalore and Member.
  - (3) R.Jagadeesh Prasad,  
Additional Commissioner of Commercial Taxes  
(Goods and Service Tax), Bangalore and Member.

NAME AND ADDRESS OF THE APPLICANT : M/s The Himalaya Drug Company,  
Makali, Bangalore -562 123  
(Represented by Sri K.Dayananda, C.A,  
and duly authorized representative)

TIN : 29560058195

JURISDICTIONAL  
ASSESSING AUTHORITY : ACCT, LVO-65

**ORDER NO.AR.CLR.CR.34/2012-13, DATED 21.09.2013**

The Himalaya Drug Company, Makali, Bangalore-562 123, is a dealer registered under the KVAT Act, 2003 with TIN 29560058195, ('the applicant' for short), engaged in the business of manufacture and sale of Ayurvedic medicines and herbal products. The applicant has sought clarification on rate of tax applicable on the product newly launched by it, namely, Hiowna - Jr, which is manufactured by the applicant in two flavours, namely, chocolate and strawberry. The applicant has given detailed description and use of the product, which are as follows: -

- (1) The product helps the children in all round development of growth of children as the product provides multi nutrient, energy boosting,

digestive, immuno-modulatory properties, immunity against respiratory tract infection and modifies cognition in children.

- (2) The product is manufactured after obtaining a licence under the Drugs and Cosmetics Act, 1940 read with Drugs and Cosmetic Rules, 2010 and the product is produced in accordance with the formulae prescribed in the Ayurvedic books.
- (3) The dosage of the product is as per the prescription of the physician.

2. The understanding of the applicant is that the product manufactured by it is liable to tax under entry Si. No.60 of the Third Schedule to the KVAT Act, 2003, as a medical and pharmaceutical preparation. In this regard, reliance is placed by the applicant on the decision rendered by the Hon'ble High Court of Karnataka in the case of United Trading Agency Vs Additional Commissioner of Commercial Taxes, Bangalore, reported in 104 STC 182.

3. Sri K.Dayananda, CA, duly authorized by the applicant appeared before this Authority and he is heard. He reiterated the facts stated in the application. At the time of hearing, he produced a copy of the judgement rendered by the Hon'ble Madras High Court in the case of Cadbury India Limited to prove that for medicine / drug to be eligible to be called as medicinal preparation, there is no need to have the prescription of the doctor and that it is sufficient if the product is manufactured under the Drug licence.

4. The Joint Commissioner of Commercial Taxes (Administration), DVO-6, Bangalore has, vide, letter dated 29.5.2013 has opined that the product manufactured by the applicant is covered under entry Sl.No.60 of the Third Schedule and hence liable to tax at 4%. However, he qualifies his opinion stating that it is based on the statement of facts furnished by the applicant, thus indicating that he has not made any independent appreciation of the facts of the case.

