May 15, 2018

BIR RULING NO. 816-18

Sec. 109 (1) (B), NIRC of 1997, as amended; BIR Ruling No. 044-14

Isla Lipana & Co.
29th Floor, Philamlife Tower,
8767 Paseo de Roxas,
1226 Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated March 22, 2016 on behalf of your client, Novus International Pte. Ltd.-Philippine Branch (Novus for brevity), requesting for confirmation that the sale or importation of feed ingredients is exempt from Value Added Tax (VAT) pursuant to Section 109 (1) (B) of the National Internal Revenue Code of 1997, as amended, as implemented by Revenue Regulations (RR) No. 16-2005, as amended.

It is represented that Novus is a corporation organized and existing under the laws of Singapore; that it is duly licensed by the Philippine Securities and Exchange Commission (SEC) under SEC Registration No. FS200719206, to act as an importer, distributor and agent of animal feed, feed supplements and related products on wholesale basis; that pursuant to its license, Novus also imports and distributes feed additives such as enzymes and minerals which are sold to local agricultural consumers; that it is registered with the Bureau of Animal Industry (BAI) under BAI License to Operate Nos. VDAPDW-08-44 and VDAPDI-08-106 pursuant to the provisions of Republic Act (RA) No. 1556; and that its products are also registered with the BAI under the following Certificates of Feed Product Registration:

BAI Feed Product Registration No.	Name of Product	Classification
FA-1077	ACIDOMIX AFL — Preservative	Feed Additive
FA-1078	ACIDOMATRIX PRO — Preservative	Feed Additive
FA-1079	ACTIVATE DA — Preservative	Feed Additive
FA-1080	ACTIVATE WD MAX — Preservative	Feed Additive

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FS-502	MERA MET CA	Feed Supplement
FA-1081	MERA CID — Preservative	Feed Additive
FS-501	MHA Hydroxyl-4-Methionine Analogue	Feed Supplement
FS-499	ALIMET Methionine Hydroxy Analogue	Feed Supplement
FS-500	MHA 2 Hydroxyl-4-Methionine Analogue	Feed Supplement
FA-980	SANTOQUIN MAX — Anti-oxidant	Feed Additive
FA-1087	SANTOQUIN LIQUID — Preservative	Feed Additive
FA-1076	ACIDOMIX AFG — Preservative	Feed Additive
FA-1088	SANTOQUIN MIXTURE 6 — Preservative	Feed Additive
FA-1086	SANTOQUIN LIQUID — Preservative	Feed Additive
FA-1089	SANTOQUIN MIXTURE 6 — Preservative	Feed Additive
FA-1085	PRO-STABIL BSL — Preservative	Feed Additive
FA-1083	PRO-STABIL AP 55 G — Preservative	Feed Additive
FI-4327	SOREIN SeY	Feed Ingredient

In reply, please be informed that Section 109 (1) (B) of the National Internal Revenue Code of 1997, as amended, provides:

> "*SEC. 109. Exempt Transactions. — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:*
>
> XXX XXX XXX
>
> *(B) Sale or importation of fertilizers; seeds, seedlings and fingerlings; fish, prawn, livestock and poultry feeds,* ***including ingredients, whether locally produced or imported, used in the manufacture of finished feeds*** *(except specialty feeds for race horses, fighting cocks, aquarium fish, zoo animals and other animals generally considered as pets)*; (Emphasis supplied)
>
> XXX XXX XXX"

The words "ingredients" and "feeds" are defined in Section 3 of RA No. 1556 (An Act to Regulate and Control the Manufacture, Importation, Labelling, Advertising, and Sale of Livestock and Poultry Feeds), otherwise known as the "Livestock and Poultry Feeds Act," as amended by Presidential Decree (PD) No. 7, as follows:

> *"Section 3. Definitions. — For the purpose of this Act, the following terms shall mean:*
>
> XXX XXX XXX
>
> *(d) "Feeds" or "Feeding Stuff" shall include all such articles to be used as feeds for the purpose of feeding purporting to supply proteins, carbohydrates, fats, minerals, vitamins, antibiotics and/or correcting nutritional disorders. Such articles may be locally produced or imported, mixed or in the form of simple*

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ingredients.

xxx xxx xxx

(l) "Ingredients" means any single article of feed or feeding stuff which enters into the composition of a ration, concentrate, or supplement."

Corollarily, Section 4 *supra* states that:

"*Section 4. Registration. — (a) Any person, partnership, firm, corporation or association desiring to engage in the manufacture, importation, sale or distribution of feeds or feeding stuffs shall first be registered in the Office of the Director.*

(b) Applications for registration or annual renewal thereof, shall be made by the person, partnership, firm, corporation or association marketing, manufacturing, or importing such feeds or feeding stuffs, or by his accredited agent in such form and manner as may be prescribed from time to time by regulation.

(c) An application for registration shall be accompanied by a registration fee of five pesos for a person, firm, partnership, corporation or association engaged in the retailing or distribution of commercial feeds or feeding stuffs, and one hundred pesos for manufacturers and/or importers of commercial feeds or feeding stuffs.

(d) No feeds or feeding stuffs in the form of complete mixture, concentrate, supplement, or ingredients which have not been registered with the Director, shall be manufactured, imported, advertised, sold or offered for sale or held in possession for sale in the Philippines.

xxx xxx xxx"

Likewise, the Department of Agriculture (DA) in DA Administrative Order No. 12-07 (Revised Implementing Rules and Regulations on the Registration of Feed Establishments and Feed Products) defined the following terms as follows:

"*Section 2. Definition of Terms. —*

For purposes of these rules and regulations, the following definitions are hereby adopted:

xxx xxx xxx

2.28. Feed Additive — refers to an ingredient or combination of ingredients which is added to the basic mixed feed to fulfill a specific need which include, but not limited to, acidifiers, antioxidants, aromatics, deodorizing agents, flavour enhancers, mold inhibitors, pellet binders, preservatives, sweeteners, toxin binders, etc. It is usually used in micro quantities and requires careful handling and mixing. A feed additive may have no nutritive value but is added to the feed to improve its quality and efficacy.

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2.38. Feed Premix — refers to a uniform mixture of one or more micro-ingredients with diluents and/or carrier. Premixes are used to facilitate uniform dispersion of the micro-ingredients in large mix.

xxx xxx xxx

2.41. Feed Supplement — refers to a feed ingredient or mixture of feed ingredients intended to supply the deficiencies in a ration or improve the nutritive balance or performance of the total mixture. For purposes of this AO, amino acids, fatty acids, vitamins and minerals are considered as feed supplements.

xxx xxx xxx"

In BIR Ruling 044-2014 dated February 5, 2014, this Office ruled that:

"In view of the foregoing and considering that Tajami Feed Premix Powder Enzymes with 10% Tolerance (Protease, Rice Bran 80%, Wheat 15%, soybean oil cake and others 5%) has been certified by the BAI as a duly registered product for livestock, poultry and aquaculture feeds use, the importation of such additives for livestock feeds shall be exempt from VAT pursuant to the provision of the Tax Code of 1997, as amended. However, please note that the same should not be released from customs custody unless a duly approved Authority to Release Imported Goods (ATRIG) is presented."

Therefore, as represented since the above-mentioned products are classified as feed additives, feed ingredients, or feed supplements based on the BAI Certificates of Product Registration, and are primarily used for the production of livestock and poultry feeds, this Office holds that the sale or importation of the above-mentioned feed additives, feed ingredients, or feed supplements are EXEMPT from VAT pursuant to Section 109 (1) (B) of the National Internal Revenue Code of 1997, as amended, as implemented by Revenue Regulations No. 16-2005, as amended. However, please note that the same shall not be released from customs custody unless a duly approved ATRIG is secured.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

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