



सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण
CUSTOMS AUTHORITY FOR ADVANCE RULINGS
नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - ४०० ००१
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The 16th of October, 2023
Ruling Nos. CAAR/MUM/ARC/67/2023
in
Application No. CAAR/CUS/APPL/95/2023 - O/o Commr-CAAR-MUMBAI

Name and address of the applicant: M/s. Shree Ganesh Traders,
3/2, 4th Street, First Cross, Surendra Nagar,
Adabakkam, Chennai -600088.

Commissioner concerned: The Commissioner of Customs,
Chennai-II (Import),
Custom House, 60, Rajaji Salai,
Chennai 600 001.

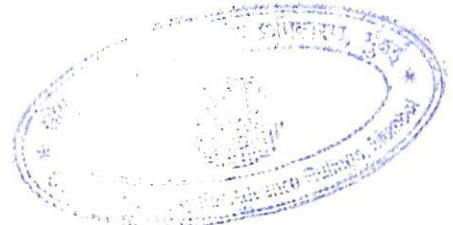
Present for the applicant: Shri. E. Ramesh, Advocate

Present for the Department: Shri Indra Prakash Mishra, Assistant Commissioner,
Chennai-II (Import Commissionerate).

Ruling

M/s. Shree Ganesh Traders (having IEC No. DQOPG0524C and hereinafter referred to as 'the applicant', in short) filed an application (CAAR-1) for advance ruling before the Customs Authority for Advance Rulings, Mumbai (CAAR in short). The said application was received in the secretariat of the CAAR, Mumbai on 24.07.2023 along with their enclosures in terms of Section 28H (1) of the Customs Act, 1962 (hereinafter referred to as the 'Act' also). The applicant is seeking advance ruling on the classification of "Roasted Areca/Betel Nuts (whole or cut)" for imports through the port of Chennai. The applicant intends to import "Roasted Areca/Betel Nuts (whole or cut)" from Burma, Indonesia, Sri Lanka.

2. Applicant has stated as follows in their statement of relevant facts having a bearing on the question(s) raised enclosed with the CAAR-1 application:



2.1 As per the present scheme of Classification of commodities under the Customs Tariff Act, 1975 reproduced below (relevant portion), Fruits, Nuts and other edible parts of plants are classified under the Chapter Heading 2008, while *roasted nuts are particularly and specifically classified under the Tariff Item 20081920*:

2008	FRUIT, NUTS AND OTHER EDIBLE PARTS OF PLANTS, OTHERWISE PREPARED OR PRESERVED, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR SPIRIT, NOT ELSEWHERE SPECIFIED OR INCLUDED
	- <i>Nuts, ground-nuts and other seeds, whether or not mixed together :</i>
2008 11 00	-- Ground-nuts
2008 19	-- <i>Other, including mixtures:</i>
2008 19 10	--- Cashew nut, roasted, salted or roasted and salted
2008 19 20	--- Other roasted nuts and seeds
2008 19 30	--- Other nuts, otherwise prepared or preserved
2008 19 40	--- Other roasted and fried vegetable products
2008 19 90	--- Other

2.2 the process of 'roasting' is not defined in the Customs Tariff nor in the HSN Explanatory Note/Sections Note/Chapters Note. In the absence of such a definition, recourse is sought to the various dictionary meanings of the word 'Roasting'. Further, process involved in the proposed import items is detailed as follows:

The roasting of seeds of fresh areca nuts wholly or cut into two pieces are roasted by the following steps: -

- A. De-husking the raw betel/areca nut and drying the same before being fed into the roasting oven;
- B. Feeding the fresh areca nuts into a seed roasting oven, heating at the temperature of more than 150 deg. C;
- C. Taking the areca nuts out of the oven, cooling at room temperature and feeding back into the oven, heating and roasting again, and performing this cycle until the moisture content of the areca nuts is less than 6 percent.

3. The statement containing the applicant's interpretation of law/and or facts in respect of the issues on which the advance ruling is sought is as under:

- i. The appellant submits that the classification of items is governed by the scheme of classification under the Customs Tariff Act, 1975 read with the "The General Rules for the Interpretation of Import Tariff". As per GRI 1 'roasted nuts' are specifically classifiable under the 'HS Code 20081920'.
- ii. The official interpretation of the HS is given in the Explanatory Notes published by the WCO and offers a safe guide to interpret and classify the commodity under consideration. As per the HSN Explanatory Notes to the Chapter Heading 2008



given below, 'Dry Roasted Areca (or Betel) Nuts' are specifically covered under the Chapter Heading 2008: This heading covers fruit, nuts and other edible parts of plants, whether whole, in pieces or crushed, including mixtures thereof, prepared or preserved otherwise than by any of the processes specified in other Chapters or in the preceding headings of this Chapter. *It includes, inter alia:*

- (1) *Almonds, ground-nuts, areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives.*

The applicant has further cited following case laws and has submitted that Hon'ble Supreme Court has decided and reiterated that the HSN Explanatory Note is the safe and dependable guide in the matters of classification of items:

- i. *L.M.L. Ltd. Versus Commissioner Of Customs Reported In 2010 (258) E.L.T 321 (S.C)*
- ii. *Holostick India Ltd. Versus Commissioner Of Central Excise, Noida Reported In 2015 (318) E.L.T 529 (S.C)*
- iii. *Collector Of Central Excise, Shillong Versus Wood Craft Products Ltd Reported In 1995 (77) E.L.T 23 (S.C)*

4. The Applicant submits that while Chapter 8 of the *Customs Tariff Act, 1975* deals with 'edible fruits and nuts', that include areca/betel nut, Chapter 21 deals with 'miscellaneous edible preparations'. A closer reading of the Chapter Note and the General Explanatory Note to the Chapter 08 reproduced below would convey that only 'nuts' that are processed for preservation and as the manner prescribed therein are classified under the Chapter 08.

Chapter 8

Edible fruit and nuts; peel of citrus fruit or melons

Notes.

1.- *This Chapter does not cover inedible nuts or fruits.*

2.- *Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.*

3.- *Dried fruit or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes :*

- (a) *For additional preservation or stabilisation (for example, by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbet),*
- (b) *To improve or maintain their appearance (for example, by the addition of vegetable oil or small quantities of glucose syrup),*

Provided that they retain the character of dried fruit or dried nuts.



From the above, it is clear that the nuts classifiable under this Chapter should be treated only for the purpose of additional preservation or stabilisation or to improve or maintain their appearance. In effect, any treatment that is aimed at other than or beyond preservation/stabilisation or improve/maintain appearance automatically makes the product ineligible for classification under the Chapter 08 itself. This has been legibly brought out in the HSN General Explanatory Note to the Chapter 08 reproduced below:

This Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally intended for human consumption (whether as presented or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated, evaporated or freeze-dried); provided they are unsuitable for immediate consumption in that state, they may be provisionally preserved (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).

The term "chilled" means that the temperature of a product has been reduced, generally to around 0°C, without the product being frozen. However, some products, such as melons and certain citrus fruit, may be considered to be chilled when their temperature has been reduced to and maintained at + 10 °C. The expression "frozen" means that the product has been cooled to below the product's freezing point until it is frozen throughout. Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled.

It should be noted that homogenisation, by itself, does not qualify a product of this Chapter for classification as a preparation of Chapter 20. The addition of small quantities of sugar does not affect the classification of fruit in this Chapter. The Chapter also includes dried fruit (e.g., dates and prunes), the exterior of which may be covered with a deposit of dried natural sugar thus giving the fruit an appearance somewhat similar to that of the crystallised fruit of heading 2006.

*However, this Chapter does not cover fruit preserved by osmotic dehydration. The expression "osmotic dehydration" refers to a process whereby pieces of fruit are subjected to prolonged soaking in concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. **The fruit may subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20 (heading 20.08).***

From the above, it is amply clear that none of the processes referred above is employed in the product proposed to be imported. **Further, the fruits air-dried to reduce moisture itself excludes it from the purview of Chapter 08 and places the same under the Chapter 20.** Therefore, the processes involved in the proposed import item, 'Roasted Areca Nut (Whole/split) is completely different from the



preservative processes for the products falling under the Chapter Heading 0802 and hence would not fall under the said Chapter.

Apart from the above, the impossibility of classifying 'roasted beetle nut/ areca nut' under the Chapter Heading 0802 can be further ascertained from the Exclusion Clause to the **HSN General Explanatory Note to the Chapter 08** given below:

This Chapter also excludes a number of vegetable products more specifically covered in other Chapters (even though botanically some of them are fruits, e.g:

- (a) Olives, tomatoes, cucumbers, gherkins, marrows, pumpkins, aubergines (egg-plant), fruits of the genus Capsicum or of the genus Pimenta (Chapter 7).*
- (b) Coffee, vanilla, juniper berries and other products of Chapter 9.*
- (c) Ground-nuts and other oleaginous fruit, fruit used primarily in pharmacy or in perfumery, locust beans, kernels of apricots or of similar fruit (Chapter 12).*
- (d) Cocoa beans (heading 18.01).*

The Chapter further excludes:

- (i) Fruit flour, meal and powder (heading 11.06).*
- (ii) Edible fruit and nuts and peel of melons or citrus fruit, prepared or preserved otherwise than as described above (Chapter 20).*
- (iii) Roasted fruit and nuts (e.g., chestnuts, almonds and figs), whether or not ground, generally used as coffee substitutes (heading 21.01).*

*It should be noted that fruit and nuts of this Chapter remain classified here even if put up in airtight packings (e.g., dried prunes, dried nuts in cans). In most cases, however, **products put up in these packings have been prepared or preserved otherwise than as provided for in the headings of this Chapter, and are therefore excluded (Chapter 20).***

Products of this Chapter remain classified here (e.g., fresh strawberries) when subjected to packaging by means of a Modified Atmospheric Packaging (MAP) process. In a MAP process the atmosphere surrounding the product is altered or controlled (e.g., by removing or reducing the oxygen content and replacing it with or increasing the nitrogen or carbon dioxide content.

Clearly, the products proposed to be imported, namely, roasted areca/betel nut undergoes the process otherwise than the one mentioned in the Notes to the Chapter 08 and hence falls outside the purview of the said Chapter.



5. The Applicant submits that the vital question as to whether the roasted nuts would fall under the Chapter Heading 0802 or Chapter Heading 2008 was affirmatively answered in favour of the later (CTH 2008) by the Hon'ble Supreme Court in the case of *Commissioner of Customs & Central Excise, Goa Vs Phil Corporation Ltd reported in 2008 (223) E.L.T 9 (S.C)*. Hence, **the settled position of law is that nuts falling under Chapter 08 would be classified under Chapter 20, if the same is subjected to the process of roasting.**

6. The Chennai-II Customs Commissionerate which is the jurisdictional Customs Commissionerate has responded to the application and the same is reproduced below:

6.1 The applicant's claim that roasting is not defined in the Customs Tariff Act 1975 is not correct. Though roasting as a process is not defined, it will fall under the '**moderate heat treatment**' mentioned in Chapter Note 3 of Chapter 8, which is reproduced below.

"3. Dried fruits or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes:

*a) For additional preservation or stabilization (for example, by **moderate heat treatment**, sulphuring, the addition of sorbic acid or potassium sorbate)*

b) To improve or maintain their appearance (for example, by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried betel nut, fruit or dried nuts."

6.2 The applicant's claim that after repeated roasting of the areca nuts at the temperature of more than 150 degrees Celsius in a roasting oven due to which the water content is reduced to 6% is a complete misrepresentation of facts. The applicant has claimed that after roasting water content comes down to 6 percent. However, as per the test reports available with this office, the moisture content is normally less than 10% for various consignments of raw betel nuts imported under Chapter 08. Therefore, there is not much difference between the roasted nuts and raw betel nuts in terms of temperature. Applicant did not provide any test report before Advance Ruling authority. Hence, it is clear that the applicant did not provide the complete process before the CAAR and have mis-represented the facts. The applicant states that processes mentioned in chapter 8 are different from the processes performed on impugned goods. Since the claimed process by the applicant is devoid of any test report and roasting is well inclusive in heat treatment mentioned in Chapter note 3 of Chapter 8, the applicant's contention does not hold any water. After roasting, the end product remains dried areca nut, which is well defined in chapter 8 up to 6-digit level.

6.3. In the process flow to make roasted betel nut, one set of process are found to be intended for cleaning, the second set for heating and roasting. These processes are clearly covered by the Chapter Note 3 to Chapter 8 (supra). In the instant case, betel nuts after being roasted are cooled and this fact per se would not exclude the end-products from the scope of "dried nuts". Further, it is equally obvious that roasting or mere addition of certain additives for the limited purpose of enhancing preservation or appearance or ease of consumption per se does not result in obtaining a preparation of betel nut. Therefore, the process to which raw betel



nuts have been subjected as per process flow submitted by the applicant is squarely in the nature of processes referred to in the Chapter Note 3 to Chapter 8 and HSN Notes. Hence at the end of the said processes, the betel nuts retain the character of betel nut and do not qualify to be considered as "preparations" of betel nut, which is sine qua non for the goods to be classifiable under Chapter 20. To be classified under Chapter 20 there should be some preparation as the Chapter heading reads as "*Preparations of vegetables, fruit, nuts or other parts of plants*". Mere roasting of betel nut does not render the product to be distinctive as claimed by the applicant or does not alter the character of the original good. Hence it remains the betel nut and rightly classifiable under Chapter 08. According to Cambridge dictionary, "Preparation is a mixture of substances, often for use as a medicine". According to Collins Dictionary "A preparation is a mixture that has been prepared for use as food, medicine, or a cosmetic." However, in the process flow mentioned in para 2 it is evident that there is neither any mixture of products nor any change in the original good which tantamount to no preparation.

6.4. The applicant has claimed that dry Roasted Areca (or Betel) Nuts are specifically covered under Chapter Heading 2008. This is another misrepresentation of facts since the Chapter 20 cannot and does not cover any nuts or fruits prepared or preserved by the processes specified under Chapter 8 as per the Chapter Note 1 of the Chapter 20 and the chapter note 3 of Chapter 8 includes roasting under '*moderate heat treatment*', hence the impugned goods cannot be classified under Chapter 20. The said chapter note is reproduced below:

1. *This chapter does not cover:*

- a. *Vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, Chapter 8, or Chapter 11;*
- b. *Vegetable fats and oils (chapter 15);*
- c. *Food preparations containing more than 20% by weight of sausage, meat, meat offal, blood, insects, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (chapter 16)*
- d. *Bakers' wares and other products of heading 1905; or*
- e. *Homogenized composite food preparations of heading 2104.*

6.5 Further, as per Rule 3(a) of General Rules for the Interpretation of the Harmonized System since the product is more specifically classified under CTH 08020 classification under Chapter 2008 or 2106 is unwarranted.

When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods



6.6 It is pertinent to mention that the Chapters are organised as per evolution which is evident by the fact that the edible nuts and fruits are classified under Chapter 8, preparations of vegetables, fruits, nuts or other parts of plants under Chapter 20 and miscellaneous edible preparations under Chapter 21. Hence, since the roasted betel nut which did not undergo any preparation is rightly classifiable under Chapter 8.

6.7 Further, reliance is placed on the following Advance Rulings:

- i. *CAAR Delhi vide ruling no. CAAR/Del/Vaibhav/21/2021 in the case of M/s Vaibhav Enterprises*
- ii. *CAAR Delhi vide ruling no. CAAR/Del/Sarveshwari/11/2021 in the case of M/s Sarveshwari industries.*
- iii. *CAAR Delhi vide ruling no. CAAR/Del/Naman Agri/09/2021 in the case of M/s Naman Agri Impex Private Ltd.*
- iv. *Chennai CESTAT order in M/s S.T. Enterprises v/s Commissioner of Customs (Chennai-vii) [2021(378) E.L.T.514(Tri. Chennai)].*

7. A personal hearing in the matter was conducted on 14.09.2023. During the virtual personal hearing the authorized representative of M/s. Shree Ganesh Traders Shri Ramesh Advocate reiterated their submissions made in the application to CAAR. Further they elaborated the product in question i.e. Roasted Betel/Areca nuts. They informed that their product is prepared through intense roasting of areca nuts such that the moisture content in it goes below 6%. The applicant requested the authority to clarify the correct CTH for the proposed import of their product.

7.1 The Jurisdictional Commissionerate, represented by Assistant Commissioner Shri. Indra Bahadur Mishra of Chennai Customs reiterated their submissions made in the official letter dated 22.08.2023 submitted to the Secretariat, CAAR, Mumbai. They further stated that the submission of the applicant regarding the moisture content appears doubtful since the same can be obtained by normal heating of areca nuts when exposed in sun for longer period. Also the product in question are usually packed in Jumbo bags and not in pre-packed condition therefore it becomes very tough for field formations to differentiate between areca nuts pertaining to chapter 8 and the proposed import of roasted areca nuts in which the applicant is seeking classification under Chapter 20.

7.2 The applicant was asked regarding the above submissions made by the jurisdictional Commissionerate. Vide letter dated 18.09.2023 the applicant made additional submissions which are reproduced verbatim as under:

- i. It is submitted that the attention was drawn to the method of packing as indicated in the HSN explanatory note to chapter 20 to argue that in order to qualify the roasted betel nut under chapter heading 2008, the proposed import item should also be in such packing. This argument appears to have emanated from the non-appreciation of the word “generally” used in the said HSN EN reproduced below:

“The products of this heading are generally put up in cans, jars or airtight containers, or in casks, barrels or similar containers”



The dictionary meaning of generally is usually or commonly thereby indicating that there are exceptions to the packing methods mentioned therein. If understood in this context, the roasted betel nuts having moisture content less than 5% (3 to 4% in general) depending upon the duration and intensity of roasting, needs not packed in cans, jars or airtight containers or in casks, barrels or similar containers as the same is less susceptible to deterioration. These kinds of packing are required for products that are not roasted and are susceptible to deterioration due to exposure to atmospheric moisture. It is clear that except for roasted nuts other products may require the packing as indicated in the relevant HSN Explanatory Note.

ii. As to the Department Representative's request to fix the moisture content at 1.5% to make the subject item qualify for classification under the CTH 2008, it is submitted that such a proposal is without any reasoning either scientific or otherwise. Driving out the moisture of the betel nut to its extremity (1.5%) may result in the product being completely burn out to become ash, literally. By this the department is attempting to achieve what could not be achieved through legal process. Rather it is pertinent to mention and draw attention of the authority to the Lab Report No.173/MCH/10.08.2023 dated 24.08.2023 issued by CRCL Chennai in respect of import of Roasted betel nut by M/s Universal Impex (IEC No. 0313014159) based on the CAAR ruling No. CAAR/Mumbai/ARC/39,40,41/2023 dated 12.05.2023. To a specific test memo by the Customs department to ascertain whether the item under import was "roasted beetle nut" or not the Customs lab after testing the item reported as follows:

"The item is in the form of grey brown whole nuts having cracks on the upper surface. It answers tests for areca nuts active ingredients, arecoline and Homarecoline.

Moisture content=3.92%

Carbohydrate content=1.2%

In view of reference available and as the moisture content and carbohydrate content of the sample under reference is less than the raw areca nut, it may be considered as dry roasted areca nuts.

Based on the above test report, the Chennai customs has cleared the consignment, the truth and veracity of the same can be verified from the same customs representative who attended the personal hearing. This being the fact available on public record, suggesting moisture content to be 1.5% is nothing short of distorting the truth and in fact it tantamount to misguiding the Authority.

iii. Last but not the least, it is respectfully submitted that the issue on hand has been unequivocally dealt with by the CAAR, Mumbai in its various orders and the Rulings on the subject matter is endorsed by the Hon'ble High Court of Madras in its order dated 01.08.2023 in respect of CMA No. 600, 1206 and 1750 of 2023 and CMA Nos. 4979, 11784 and 17186 of 2023. By leaving no stone unturned, all aspects and grounds raised by the Chennai Customs is clearly answered by the Authority as well the Hon'ble High Court in the said orders.

8. I have taken into consideration all the materials placed on record in respect of the subject goods including the submissions made by the applicant during the course of personal



hearing. I have gone through the response from the AC, Customs, Chennai and the rebuttal to that filed by the applicant. I therefore proceed to decide the present application regarding classification of roasted Areca nut on the basis of the information on record as well as the existing legal framework having bearing on the classification of the roasted areca nut under the first schedule of the Customs Tariff Act, 1975.

8.1. The processes mentioned in Chapter 8 include chilling, steaming, boiling, drying and provisionally preserving. It does not specifically include the process of roasting. Here it is important to understand the difference between the processes of moderate heat treatment & dehydrating/drying referred in chapter 8 and processes of dry roasting, oil-roasting and fat-roasting referred in chapter 20. The terms dry-roasting, oil roasting and fat-roasting however are not defined in the Customs Tariff Act, 1975. Therefore, these terms have to be understood in a commonly accepted sense. The Hon'ble Apex Court in the case of *Alladi Venkateswarlu v. Government of Andhra Pradesh* 1978 AIR 945 held that *"the commonly accepted sense of a term should prevail in construing the description of an article of food"*. In common trade parlance, *"drying" is a method of food preservation by the removal of water content. On the other hand, "roasting" means the excess or very high heat treatment that produces fundamental chemical and physical changes in the structure and composition of the goods, bringing about a charred physical appearance. Therefore, drying is a moisture removal process involving methods such as dehydration, evaporation, etc., whereas roasting is a severe heat treatment process"*.

8.2. Chapter 20 of the Tariff covers the Preparations of vegetables, fruit, nuts or other parts of plants. As per Chapter Note 1 (a) to Chapter 20, the Chapter does not cover vegetables, fruits or nuts prepared or preserved by the processes specified in Chapters 7, 8 or 11. Therefore, vegetable, fruit or nut products or preparations made other than by the processes specified in Chapters 7, 8 or 11 are classifiable in Chapter 20. The processes specified in Chapters 7, 8 or 11 mainly include freezing, steaming, boiling, drying, provisionally preserving and milling. Therefore, any vegetable, fruit, nut or edible parts of a plant which is prepared or preserved by any other process than these are liable to be classified under Chapter 20. Heading 2008 covers Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included. Roasting is a process used for bringing in to existence roasted nuts and as discussed earlier I find that the processes mentioned in chapter 8 do not cover roasting process.

8.3. Note 3 to Chapter 8 specifies certain treatments that could be carried out on the dried nuts for additional preservation or stabilization or to improve or maintain their appearance. The applicant in their application has declared that the objectives of the roasting are not as specified in the said note. Further, as per the above note, the processes that could be carried out are moderate heat treatment, sulphuring, and the addition of sorbic acid or potassium sorbate by the addition of vegetable oil or small quantities of glucose syrup. Roasting is different from all the processes mentioned above. Roasting, as submitted by the applicant, is carried out using roasting ovens due to which betel nuts are roasted well beyond 150 degrees Celsius then cooled in room temperature and the cycle is repeated until the moisture content is less than 6 %. This



clearly indicates that the roasting is much more than mild heat treatment. Even in the generally understood meaning of the terms, it is understood that roasting involves severe heat treatment and is different from moderate heat treatment as well as dehydration. Therefore, the impugned goods do not satisfy Note 3 to Chapter 8.

8.4. While examining the scope of CTH 2008 I find that, as per HSN Explanatory Notes, heading 2008 covers fruit, nuts and other edible parts of plants, whether whole, in pieces or crushed, including mixtures thereof, prepared or preserved otherwise than by any of the processes specified in other Chapters or in the preceding headings of this Chapter. Specifying what is included in this heading, the explanatory note states that almonds, ground nuts, areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives. Dry-roasting, oil-roasting & fat-roasting, as a process, are very much a part of chapter heading 2008 by virtue of HSN Explanatory Notes. It is also pertinent to observe that none of these processes are mentioned in the chapter note 3 to Chapter 8 of the Customs Tariff Act, 1975 as well as HSN Explanatory Notes to Chapter heading 0802.

8.5. The applicant has answered all the queries raised by the Jurisdictional Commissionerate during the Personal Hearing. The queries raised regarding the method of packing of the goods in question and the moisture content have been logically answered by the applicant in its rebuttal submitted in this office. In support of its arguments the applicant has made reference to the results/reports of some tests of the goods in question carried out at Chennai Customs. I concur with the arguments submitted by applicant in its rebuttal.

9. It is an established fact that in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Tariff Act. The case of Commissioner of Customs & Central Excise vs Phil Corporation Ltd in Appeal (civil) 2215 of 2002 dated 07/02/2008, is directly relevant and applicable in the instant case of the applicant. In the judgement of the said case Honourable Supreme Court has held "*a number of cases, this Court has clearly enunciated that HSN is a safe guide for the purpose of deciding issues of classification. In the present case, the HSN Explanatory Notes to Chapter 20 categorically state that the products in question are so included in Chapter 20. The HSN Explanatory Notes to Chapter 20 also categorically state that its products are excluded from Chapter 8 as they fall in Chapter 20. In this view of the matter, the classification of the products in question has to be made under Chapter 20.*" While delivering Phil Corporation Judgment honourable Supreme Court has clearly spelt out importance of HSN Explanatory notes in deciding the matters of classification placing reliance on the judgment of Supreme Court in the case of Collector of Central Excise, Shillong v. Wood Craft Products Ltd. (1995) 3 SCC 454. Honourable Supreme Court in paragraph 12 of the said judgment observed as under: - "*Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN. This being the expressly acknowledged basis of the structure of the Central Excise Tariff in the Act and the tariff classification made therein, in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Act.*"



From the apex court's foregoing judgments, it is observed that the roasted nuts find specific mention in the then chapter 20 of the then Central Excise Tariff Act and the chapter 20 of the schedule I of the Customs Tariff Act 1975 as well as corresponding HSN Explanatory Note. It is important to pay attention to the fact that, in the above referred HSN explanatory note, a process of roasting is not specifically mentioned as a process of preservation or stabilization or a process to improve or maintain the appearance. Specific attention is invited to the paras 10 & 11 of the SC judgment (M/s Phil Corporation) in which paras 6 & 7 of SC judgment in case of M/s Amrit Agro are relied upon. Para 6 *inter alia* reads as follows: "*roasted peanuts are covered by Chapter 20. Even according to the Explanatory notes of HSN under Heading 20.08 ground- nuts, almonds, peanuts etc. which are dry- roasted, fat-roasted whether or not containing vegetable oil are the items which all would stand covered by the said Heading 20.08.*"

Honourable Apex Court's conclusions corroborate the finding that the process of roasting is not covered by Note 3 to Chapter 8 and hence these products, roasted betel nuts are not classifiable under chapter 8 of the Tariff.

10. In the CAAR, Mumbai Ruling No. CAAR/Mumbai/ARC/39,40,41/2023 in the case of M/s. Universal Impex, the Authority has stated his findings and has ruled accordingly- "*in view of the specific CTH 2008 19 20: Other roasted nuts & seeds in chapter 20 of the first schedule to the Customs Tariff, HSN Explanatory note to CTH 2008, various Supreme Court rulings upholding guiding value of the HSN Explanatory notes for deciding classification under Customs Tariff Act, 1975 and previously mentioned two Supreme Court judgments classifying roasted nuts which include almonds, betel nut and other nuts under chapter 20 by taking recourse to HSN explanatory note to Tariff Heading 2008*", I rule that roasted betel nuts are correctly classifiable under the tariff item 2008 19 20 of chapter 20 of the first schedule of the Customs Tariff Act, 1975."

11. The Honourable High Court of Madras in its recent judgement on 01.08.2023, has upheld the classification of Roasted Betel Nuts under CTH 2008 19 20. The Honourable High Court went on to analyse the various aspects in determining classification and summed up that:

- (a) Roasting is a process treated to be distinct from the process of boiling and drying, in fixing the classification in respect of betel/areca nut under CTH.
- (b) Roasted betel/areca nut having been specifically classified under CTH 2008 19 20, the attempt to classify under CTH 08 02 80 would fall foul of the settled rule of construction that specific entry would prevail over general entry.
- (c) HSN explanatory notes is normally a safe guide in determining classification under CTH. Roasted areca / betel nut having been mentioned in CTH 2008 19 20 under HSN.



(d) When there is a specific entry covering a product/commodity, the test of common parlance is irrelevant in determining classification.

(e) There is considerable force in the submission that the classification as far as possible must be in conformity and in consonance with the HSN Explanatory Notes.

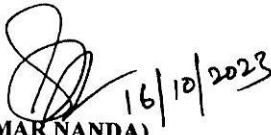
In this judgement the Hon'ble High Court has stated about the relevance of CAAR Rulings relied on by the Jurisdictional Commissionerate. Relevant para of the said judgement is reproduced verbatim as follows:- "*on perusal of the Rulings relied upon by the appellant, we find that the same did not deal with roasted areca / betel nuts, but boiled/ dried nuts and in some cases, the question was whether the commodity in issue was a preparation of betel nut. However, the cases did not deal with roasted betel/ areca nut nor was CTH 20 considered. Thus, the above Rulings may have no relevance.*"

I find that the issue dealt with i.e. Classification of "Roasted betel nuts" in the judgement of the Honourable High Court of Madras is of exactly the same issue that is impugned in this application and therefore is squarely applicable to this case.

12. On the basis of foregoing, I am of the view that the Roasted areca/betel nuts fall under Custom Tariff Heading 2008, specifically under CTI 2008 19 20 'Other roasted nuts & seeds' of Chapter 20 of the First Schedule of the Customs Tariff Act, 1975.

13. I rule accordingly.




(SAMAR NANDA)
16/10/2023
Customs Authority for Advance Rulings,
Mumbai.



This copy is certified to be a true copy of the ruling and is sent to: -

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(V. M. Sobhan Sindhu)

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Customs Authority for Advance Rulings,
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