M/s Khera Trading Company, Sanoli Road, Near Govind Tobacco Factory, Panipat, Haryana-132103 (appellant)

Appellate Authority for Advance Ruling — Haryana

Not printed on the scanned order. The listing gives HAAAR/2018-19/05 d… Dated **07.08.2019**

Q Questions Before the Authority

- Whether the product 'Cooking Cream' (sold as 'Cooking Delite') is classifiable under Chapter heading 1517 (S. No. 89 of Schedule I of Notification No. 1/2017-Integrated Tax (Rate)), attracting IGST at 5%, CGST at 2.5% and SGST at 2.5%, or is instead classifiable under Chapter heading 2106 as held in the impugned advance ruling.

F Facts

The appellant distributes dairy and non-dairy products and sells a non-dairy 'Cooking Cream' under the brand 'Cooking Delite'. The product is made by emulsifying hydrogenated palm kernel oil (about 26%) with water, milk solids, sugar and premixes of emulsifiers and stabilizers, then pasteurising, homogenising and UHT-treating it before filling into pouches. The appellant treats it as a preparation of vegetable fat under heading 1517, while the Authority for Advance Ruling had placed it under heading 2106.

H Ruling

Classification of Cooking Cream (Cooking Delite): heading 1517 as claimed, or heading 2106 as ruled below	**Not heading 1517. Classifiable under heading 2106 (tariff item 2106 90 99). Appeal dismissed.**	The order does not state a rate. The impugned ruling had applied 18% IGST and 9% CGST/SGST under S. No. 23 of Schedule III. The appellate order says only 'chargeable to GST accordingly'.

The Appellate Authority held that Cooking Delite is not classifiable under heading 1517 and that the impugned ruling's classification under heading 2106 (tariff item 2106 90 99) was correct. The appeal was therefore dismissed and the advance ruling upheld. The order does not restate the GST rate; it says only that the product is chargeable to GST 'accordingly'.

R Reasoning

The Authority applied the test of whether the product falls within the heading 1517 text, which covers edible mixtures of vegetable fats other than those of heading 1516. It relied on the HSN Explanatory Notes and found that sugar is not among the additives listed there. It distinguished Alva Sugar Agency, where margarine had about 80% fat content and was a butter substitute, from this product, which has 26% fat. It also distinguished Parisons Foods, where only permitted additives were used. Applying Rule 2(b) and Rule 3(a) of the General Rules and Chapter 21 Notes 5 and 6, it treated the product as a new product of a different name, character and use, classifiable as a food preparation not elsewhere specified under 2106 90 99. The Authority also relied on the WCO and US rulings cited in the impugned ruling. It found no procedural defect requiring interference.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

- Section 100(2) of the CGST/HGST Act, 2017 (limitation for appeal, found satisfied)
- Section 101(1) of the CGST/HGST Act, 2017 (powers of the Appellate Authority)
- First Schedule to the Customs Tariff Act, 1975: Chapter 15 (heading 1517) and Chapter 21 (heading 2106, tariff item 2106 90…
- HSN Explanatory Notes to headings 1516 and 1517
- Chapter 21 Notes 5 and 6
- General Rules for the Interpretation of the Import Tariff, Rules 2(b) and 3(a)
- Notification No. 1/2017-Integrated Tax (Rate), S. No. 89 and S. No. 23 of Schedule III (cited by the parties)
- Case law: CCE v. Wood Craft Products; Reckitt Benckiser (India) v. Commissioner; Alva Sugar Agency v. State of Kerala; Pa…

! For the Practitioner

This order is useful for practitioners classifying emulsified or cream-type vegetable fat products. It confirms that the heading 1517 HSN wording, read with the listed additives and the fat-content comparison with butter, does not extend to a product with low fat content and added sugar. It does not decide the rate in terms, so the GST rate should be checked against the notification directly. It also does not resolve the wider question of whether emulsified vegetable fat products fall under heading 1517 in general. Because the order turns on factual composition, its reach to other products is limited.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> haaar_06_2018-19_khera_trading_company_panipat.pdf

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