

M/s Savencia Fromage & dairy Pvt. Ltd.

Appellate Authority for Advance Ruling — Uttar Pradesh

Order No. 07/AAAR/18 19 /2019 Dated: 18/4/2019

Q Questions Before the Authority

- Whether the product 'Breaded Cheese' ('impugned goods') is classifiable as 'cheese' under Heading 0406, and accordingly, subject to CGST and SGST at the rate of 6 percent each under S. No. 13 of the Schedule-II appended to Notification No. 1/2017- Central Tax (Rate) dated June 28, 2017 ('Notification No. 1/2017- CT(R)') and Notification KA.NI.-2-836/XI-9(47)/17-U.P.Act-1- 2017-Order-(06)-2017 dated June 30, 2017 ('Notification No. 836/17') respectively.

F Facts

The appellant manufactures 'Breaded Cheese' (also described as cheese balls), where raw processed cheese constitutes 55% of the total volume and is mixed with spices and seasonings, coated with batter and breadcrumbs, partially fried in vegetable oil, and then frozen and packed. The Authority for Advance Ruling had classified the product under Heading 2106 as 'Food preparations not elsewhere specified or included' attracting 18% GST (9% CGST + 9% SGST). Aggrieved by this classification, the appellant preferred an appeal before the Appellate Authority.

H Ruling

Classification and applicable GST rate for 'Breaded Cheese'

Heading 0406; taxable @ 12% GST (6% CGST + 6% SGST)

Classified under S. No. 13 of Schedule II of Notification No. 1/2017-Central Tax (Rate)

The Appellate Authority modified the advance ruling, holding that 'Breaded Cheese' is properly classifiable under **Heading 0406** of the Customs Tariff Act. Consequently, the impugned goods fall under S. No. 13 of Schedule II to Notification No. 1/2017-Central Tax (Rate) and are taxable at **12% GST (6% CGST + 6% SGST)**.

R Reasoning

The HSN Explanatory Notes to Heading 0406 specifically state that cheeses coated with batter or breadcrumbs remain classified under Heading 0406 whether pre-cooked or not, provided the goods retain the character of cheese. Processed cheese forms 55% of the product's total volume and constitutes its primary essential character, while the coating serves merely as a substrate. Furthermore, Heading 2106 is a **residuary entry**, and under established legal principles, resort cannot be had to a residuary heading when a specific tariff entry (Heading 0406) squarely covers the goods.

P Provisions Relied On

Section 100 of the Central Goods and Service Tax Act, 2017

Section 101 of the Central Goods and Service Tax Act, 2017

Heading 0406 of the First Schedule to the Customs Tariff Act, 1975

Heading 2106 of the First Schedule to the Customs Tariff Act, 1975

S. No. 13 of Schedule-II appended to Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017

Notification KA.NI.-2-836/XI-9(47)/17-U.P.Act-1-2017-Order-(06)-2017 dated 30.06.2017

Rule 3(b) of the General Rules of Interpretation

! For the Practitioner

This ruling establishes that value-added cheese preparations (such as breaded, battered, or pre-fried cheese items) fall under the **specific tariff heading 0406 at 12% GST** rather than the residuary heading 2106 at 18% GST, so long as cheese remains the dominant ingredient imparting the essential character. It affirms the strong binding reliance on HSN Explanatory Notes against department attempts to push coated dairy items into residuary food preparation entries.

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 -> up aaar 07 2019-20 18.04.2019 sfadipl.pdf

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