Ambo Agritec Pvt Ltd

Authority for Advance Ruling — West Bengal

39/WBAAR/2019-20 dated 24/12/2019 (Case Number 43 of 2019; ARN AD… Dated **24.12.2019**

Q Questions Before the Authority

- What is the correct classification of the applicant's non-edible intermediary product for the confectionery industry, made from a dough of wheat flour, sugar, food grade sodium bicarbonate and water and cut into tiny kaju-shaped pellets?

F Facts

The applicant manufactures vanaspati, refined oil and biscuits, and also makes a non-edible intermediary for the confectionery industry. The product is made by mixing wheat flour, sugar and water into a dough, cutting it into kaju-shaped pellets, and drying and hardening it by heat. It is sold in non-branded plastic packs to confectionery manufacturers, who bake or fry it and add condiments to make an edible item. The applicant had been classifying it as 'pellets' under HSN 1103.

H Ruling

Classification of the kaju-shaped wheat flour dough pellets (non-edible confectionery intermediary)	**Classifiable under tariff item 1901 20 00**	Ruling is valid subject to Section 103 until declared void under Section 104(1) of the GST Act. The product is treated as a mixture and dough for bakers' wares under HSN 1905, whether or not the final edible item involves further baking or frying.

The authority held that the product is a mixture and dough of wheat flour, sugar and water, cut into a specific shape and dried and hardened by heating, and is classifiable under **tariff item 1901 20 00** . Because the product is dried by dry heat, which is baking, it is a baked intermediate, and the end product is a biscuit or other bakers' ware. The authority rejected the HSN 1103 treatment on the basis of the revenue's submission that the heading covers only branded goods.

R Reasoning

The authority relied on the Explanatory Notes to HSN 1905 (third edition), which say the heading covers all bakers' wares except those containing 20% or more by weight of sausage, meat or fish, so any food preparation involving baking at any stage falls within it. It found that drying and hardening the dough by heat is baking, which makes the applicant's product a baked intermediate. It followed the Tamil Nadu AAR ruling in Subramani Sumathi (Order No. 7/AAR/2019 dated 22/01/2019), where a baked intermediate needing frying was classified under 1905 05 40 as a sub-category of other bakers' wares. The order does not expressly address the applicant's Customs laboratory and DGFT material, or the revenue's brand-name objection beyond stating its conclusion.

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

P Provisions Relied On

Section 97(2)(a) of the GST Act (admissibility of advance ruling on classification)

Section 103 of the GST Act (binding effect of advance ruling)

Section 104(1) of the GST Act (ruling declared void)

First Schedule to the Customs Tariff Act, 1975 (tariff items 1103 20 00, 1901 20 00 and 1905 05 40, as cited)

HSN 1905 and its Explanatory Notes (third edition, World Customs Organization)

AAR Tamil Nadu, Subramani Sumathi, Order No. 7/AAR/2019 dated 22/01/2019 (relied on by the authority)

! For the Practitioner

This ruling helps manufacturers of dough-based intermediates that are dried or baked before being finished by customers, as it treats any heat-baked stage as bringing the product within the bakers' wares heading. It is a useful authority for arguing 1901 20 00 over HSN 1103 for non-branded pellets. It does not decide the merits of the HSN 1103 brand-name requirement in any detail, does not discuss the applicant's Customs and DGFT evidence, and is not binding outside West Bengal. Practitioners should read the full order before relying on it for a different product or ingredient mix.

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 -> order_no_39_of_fy_20_dated_24122019_aapl.pdf

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