M/s ALISHA FOODS, 24, Mirza Wadi, Ujjain, Madhya Pradesh 456006 (GSTIN 23ABBFA7513N1ZI)

Authority for Advance Ruling — Madhya Pradesh

Order Number 20/2019 dated 28/11/2019 (Case Number 14/2019; copy ref… Dated **28.11.2019**

Q Questions Before the Authority

- What is the correct classification of Fried Fryums of different shapes, sizes and varieties which are ready to eat, and what is the HSN Code and GST rate applicable on such goods manufactured? (The applicant reframed its original papad question at the hearing; the application was filed under clauses (a) and (e) of section 97(2).)

F Facts

The applicant is a partnership firm making papad, fried fryums, namkeens and popcorn under the Target and School Times brands. Its fried fryums are made by mixing maida flour, oil and salt into a dough, cutting it into shapes such as bowl, ring and pipe, frying and flavouring the pieces, and packing them under nitrogen; the raw fryums are bought from Gujarat, where the applicant says such papad products are tax-free. The goods are sold in Madhya Pradesh and in Uttar Pradesh and Rajasthan. The concerned officer's view was that fried fryums fall under a Chapter 21 heading, although the scan of that tariff reference is not fully legible.

H Ruling

Classification of Fried Fryums (ready-to-eat fried fryums of different shapes, sizes and varieties)	**Tariff Item 2106 90 99 of the First Schedule to the Customs Tariff Act, 1975 (HSN 2106 90 99)**	**Not papad under 1905 90 40**; the Authority rejected the applicant's papad argument and the case law it relied on.
GST rate applicable on such fried fryums	**18% (CGST 9% + SGST 9%, or IGST 18%)**	Applies under Sl. No. 23 of Schedule III to Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, as amended, and the corresponding State notification, subject to the conditions laid down in that entry.

The Authority held that fried fryums are classifiable under Tariff Item 2106 90 99 of the First Schedule to the Customs Tariff Act, 1975, and not under the papad entry 1905 90 40. It further held that the GST rate of 18% (CGST 9% plus SGST 9%, or IGST 18%) applies under Sl. No. 23 of Schedule III to Notification No. 1/2017-Central Tax (Rate), as amended, subject to the conditions in that entry.

R Reasoning

The Authority held that papad is not defined in the Customs Tariff, the GST Act or its notifications, so it must take the popular meaning. Relying on the Supreme Court and CEGAT decisions, it found that fried fryums are eaten as namkeen after frying and are not known in trade as papad, so the Shivshakti Gold Finger line of cases, which did not address fried fryums, did not apply. It then read Chapter Notes 5 and 6 of Chapter 21 together: heading 2106

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is an inclusive omnibus heading covering preparations for human consumption after processing such as frying, and the words 'such as' are illustrative only. The Authority therefore placed the product under 2106 90 99 and found that the rate entry for namkeens, bhujia and similar ready-for-consumption preparations covers it.

P Provisions Relied On

- Section 97(2)(a) and (e) of the CGST/MPGST Act, 2017 (questions raised)
- Section 98(4) of the CGST/MPGST Act, 2017 (ruling procedure)
- Section 103(2) and Section 104(1) of the CGST Act, 2017 (binding effect and voiding of ruling)
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, as amended, Schedule III, Sl. No. 23
- Notification No. 1/2017-State Tax (Rate) dated 30.06.2017, as amended (corresponding State entry)
- Explanation (iii) and (iv) to Notification No. 1/2017-Central Tax (Rate) (tariff and Chapter interpretation by reference to the Cu…
- First Schedule to the Customs Tariff Act, 1975 (Chapter 21, Chapter Notes 5 and 6; Tariff Items 1905 90 40, 1905 90 90 and…
- Case law cited: Shivshakti Gold Finger (Supreme Court); State of Karnataka v. Vasavamba Stores; Jay Khodiyar Agency and…

! For the Practitioner

A practitioner dealing with fried, flavoured fryum snacks can use this order to support classification under 2106 90 99 at 18%, and to answer a papad-rate claim by distinguishing the Supreme Court papad cases. The ruling binds only the applicant under section 103(2), and it is an advance ruling that a later authority can revisit if it is declared void. It does not decide the classification or rate of raw, unfried papad or papad pipes, which the order treats separately, and it does not address the period before 28.08.2019 or any other state's rate notification.

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_ms_alisha_foods.pdf

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