M/s. Hindustan Coca-Cola Beverages Private Limited, Village Goblej, Tal. Matar, Distt. Kheda (Gujarat), GSTIN 24AAACH3005M1ZX

Authority for Advance Ruling — Gujarat

ADVANCE RULING NO. GUJ/GAAR/R/07/2019 (In Application No. Advan… Dated **30.03.2019**

Q Questions Before the Authority

- Whether the product 'FANTA FRUITY ORANGE' is classifiable under CH 22029920 at Sl. No. 48 of Schedule II as 'Fruit pulp or fruit juice based drinks', under CH 22029990 at Sl. No. 24A of Schedule III as 'Other non-alcoholic beverages', or under 220210 at Sl. No. 12 of Schedule IV as 'All goods [including aerated waters], containing added sugar or other sweetening matter or flavoured', under Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and Notification No. 1/2017-State Tax (Rate) dated 30.06.2017 (as amended)?

F Facts

The applicant manufactures aerated drinks and fruit-juice-based drinks under various brands and commenced making 'FANTA FRUITY ORANGE' on 10 August 2017, with first supply on 24 August 2017. The product is made from orange juice concentrate stored at -18 C, reconstituted and blended with sugar syrup, additives and preservatives, then carbonated and bottled. The applicant states the drink contains 10.5% orange juice, while the product label shows orange juice concentrate at 1.6% of the product.

H Ruling

Classification of 'FANTA FRUITY ORANGE' and applicable GST rate (Notification 1/2017-CT(Rate) and 1/2017-SGST(Rate))	**Tariff Item 2202 99 90; GST 18% (CGST 9% + SGST 9%) under Sl. No. 24A of Schedule III**	Applies because the product is made from orange juice concentrate, not fruit pulp or fruit juice. Not covered by 2202 10 or 2202 99 20. Ruling is confined to the product as described in the application.

The Authority ruled that 'FANTA FRUITY ORANGE' is classifiable under **Tariff Item 2202 99 90** as other non-alcoholic beverages, and that **GST at 18% (CGST 9% + SGST 9%)** applies under Sl. No. 24A of Schedule III. The product is not covered by 2202 10 (flavoured waters) or by 2202 99 20 (fruit pulp or fruit juice based drinks), because it is made from orange juice concentrate and not from fruit pulp or fruit juice.

R Reasoning

The Authority applied Explanation (iii) and (iv) to the notifications, which import the Customs Tariff headings and the General Rules and Section and Chapter Notes for interpretation. It held that entry 2202 99 20 covers drinks based on fruit pulp or fruit juice and does not extend to drinks made from concentrate, and that the product is undisputedly made from orange juice concentrate, so the entry is not met. It also held that the product does not fall under 2202 10 (flavoured or aerated waters) and rejected the applicant's reliance on Parle Agro, since that

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

decision arose under the Kerala VAT Act. It relied on the CESTAT decision in the applicant's own case, where a concentrate-based drink was denied the fruit-juice entry, and noted that exemption notifications are construed strictly. The Commissionerate's view that the 10.5% juice content met the FSS fruit-drink threshold was not adopted for the classification.

P Provisions Relied On

- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (as amended), Explanation (iii) and (iv), Schedules II, III and IV,…
- Notification No. 1/2017-State Tax (Rate) dated 30.06.2017 (as amended)
- Customs Tariff Act, 1975, Heading 2202 and tariff items 2202 10, 2202 10 90, 2202 99 20 and 2202 99 90 (as reproduced in t…
- General Rules for Interpretation of the First Schedule to the Customs Tariff Act, 1975, and Section and Chapter Notes
- Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011, and Eleventh Amendment Re…
- Principle that exemption notifications are interpreted strictly (Dilipkumar & Co., as cited in the order)
- CESTAT decision in Hindustan Coca Cola Beverages P. Ltd. v. CCE, Chennai-IV, and Commissioner of Central Excise, Bhop…

! For the Practitioner

A practitioner advising a concentrate-based fruit-flavoured carbonated drink can use this ruling to support 18% classification under Sl. No. 24A of Schedule III, and to resist 6% claims under the fruit-juice entry where the base is concentrate. The order turns on the factual point that the drink is made from concentrate and not from fruit pulp or juice, so it does not settle the position for drinks made from fruit pulp or juice. It also does not decide the effect of the FSS fruit-content thresholds on classification.

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 -> guj_aar_07-2019_coca_cola_30.03.2019_1.pdf

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