M/s. Rich Dairy Products (India) Private Limited

Authority for Advance Ruling — Tamil Nadu

ORDER No. 41/AAR/2019 Dated **23.09.2019**

Q Questions Before the Authority

- Whether Carbonated Fruit Juice falls under Fruit Juices or Aerated drinks? (classification of goods manufactured)

F Facts

The applicant manufactures fruit juices and carbonated fruit drinks under the brands Richyaa Damer and Licta, in flavours such as lemon, orange, cola, and jeera soda. Each product is about 92.5% reverse osmosis carbonated water, with 12 to 14% sugar, 2.5% lime or lemon juice (or 5% orange juice), flavours, acidity regulators and preservatives. The products are sold as 'Carbonated Beverage with fruit juice' under FSSAI regulations.

H Ruling

Whether carbonated fruit juice (Richyaa Damer Lemon and Licta Lemon) falls under fruit juices or aerated drinks	**Classifiable under CTH 22021020 (Lemonade)**	Not fruit juice under Chapter 2009 and not aerated water under CTH 22021010; the order gives no GST rate in the ruling
Richyaa Damer Cola, Licta Cola, Richyaa Damer Jeera Soda, Licta Jeera Masala, Richyaa Damer Orange and Licta Orange	**Classifiable as 'Other' under CTH 22021090**	Classification depends on the flavour (cola, jeera soda, orange) rather than on fruit juice content

The authority held that the products are not fruit juices under Chapter 2009 and are not aerated waters under CTH 22021010. They fall under Chapter 2202 as waters containing added sugar or flavouring. **Richyaa Damer Lemon and Licta Lemon are classifiable under CTH 22021020 (lemonade)** , and **all other variants are classifiable under CTH 22021090 ('Other')** .

R Reasoning

The authority relied on Chapter 2009 and its Explanatory Notes, under which adding large quantities of water to fruit juice produces diluted beverages that are excluded from heading 2009 and fall in heading 2202. It then read FSSAI Regulations 2.3.30 and Appendix A category 14.1.4.1 as placing the products in carbonated fruit drinks rather than fruit juices. It held that carbonated water under FSSAI para 2.10.6 and category 14.1.1.2 is distinct, so the products are not aerated waters under CTH 22021010. The Appy Fizz Supreme Court decision was distinguished because it was decided under the Kerala VAT classification. The ruling was made under explanations (iii) and (iv) to Notification 1/2017-Central Tax (Rate), which apply the Customs Tariff First Schedule.

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

P Provisions Relied On

- Section 98 of the CGST Act, 2017 (advance ruling)
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, explanations (iii) and (iv)
- First Schedule to the Customs Tariff Act, 1975: Chapter 2009, Chapter 2202 (CTH 22021010, 22021020, 22021090) and Cha…
- HSN Explanatory Notes to Chapters 2009 and 2202
- Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011: paras 2.3.6, 2.3.10, 2.3.30 an…
- Supreme Court decision in Parle Agro Pvt Ltd v. Commissioner of Commercial Taxes (Appy Fizz), distinguished

! For the Practitioner

A practitioner dealing with carbonated fruit-flavoured drinks with low fruit content can use this order to support classification under Chapter 2202 rather than 2009. It shows that the Appy Fizz VAT ruling does not carry over to GST, and that the FSSAI 'carbonated beverage with fruit juice' label does not make a product a fruit juice. The order does not settle the GST rate for these products. It also does not bind other states' authorities, and the rate question was not decided in the ruling itself.

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 -> tn_aar_41_2019_rdpipl_23.09.2019.pdf

Prepared 09-11-2026.

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