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Authority for Advance Ruling — Tamil Nadu

Order No. 43/AAR/2019 Dated **26.09.2019**

Q Questions Before the Authority

- Why not classify the tamarind fruit obtained from farmers under HSN 0810 as fresh fruit, since the product does not undergo any process of manufacture or any value addition?
- Why not the department consider the tamarind fruit obtained from farmers to be classified under HSN 0810 as fresh fruit?

F Facts

The applicant procures tamarind fruit from farmers across Tamil Nadu and supplies it, packed in gunny bags and without sun drying, to processing units. The processors remove shells, seeds, fibre and soil and then dry the fruit to make processed tamarind. A roving squad officer detained a consignment and insisted that it was dried tamarind under HSN 0813 attracting 5% GST, and the jurisdictional officer supported that view.

H Ruling

Classification of unprocessed tamarind fruit bought from farmers (both questions)	**CTH **08109020** (tamarind, fresh), under HSN 0810**	Applies only to tamarind that has not been subjected to direct sun drying or industrial drying. The order does not separately address the rate of tax.

The authority ruled that tamarind supplied by the applicant which has **not undergone direct drying in sun or by an industrial process** is classifiable under **CTH 08109020** , which is tamarind, fresh. It rejected the jurisdictional officer's view that the fresh fruit and dried tamarind must be classified together under HSN 0813 by applying GIR 3(c).

R Reasoning

The authority held that specific tariff headings exist for tamarind fresh (08109020) and tamarind dried (08134010), so GIR 1 governs and GIR 3(c) need not be applied. It read the Explanatory Notes to CTH 0813 as covering dried fruit prepared either by direct sun drying or by industrial processes, and found that the applicant's fruit undergoes neither. Under Notification 1/2017-Central Tax (Rate), the meaning of tariff heading and sub-heading is taken from the First Schedule to the Customs Tariff Act, 1975 and its rules and notes, which the authority applied. The order also records the applicant's and jurisdictional officer's arguments on Rule 3(a) and 3(c) and on the definition of agricultural produce in Notification 9/2017-IGST(R), but the ruling rests on GIR 1 and the Explanatory Notes.

P Provisions Relied On

- Section 98 of the CGST Act 2017 and the corresponding TNGST Act provision (advance ruling)
- General Rules of Interpretation 1, 3(a) and 3(c) of the First Schedule to the Customs Tariff Act, 1975
- Notification 1/2017-Central Tax (Rate) dated 28.06.2017, explanations (iii) and (iv)
- Notification 1/2017-Central Tax (Rate) Sl. No. 17, HSN 0813 entry (as referred to in the order)
- Notification 2/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 57 (as cited by the applicant)
- Notification 27/2017 dated 22.09.2017, Sl. No. 33A (Tamarind, Dried) (as cited in the order)
- Notification 9/2017-IGST(R) (definition of agricultural produce, as cited by the applicant)
- Explanatory Notes to CTH 0810 and CTH 0813
- Circular 10/2019 issued by the Commissioner, TNGST (raised by the applicant at hearing)

! For the Practitioner

This order helps traders who buy unprocessed tamarind from farmers and pass it on to processors, since it fixes CTH 08109020 for fruit that has not been sun or industrially dried. It gives the applicant a basis to resist HSN 0813 classification at the roving-squad stage for undried fruit. It does not decide the rate or exemption applicable to the fresh fruit, does not cover processed or dried tamarind, and does not resolve the position of fruit that has been partly dried or processed before sale. The order is addressed to the applicant, so reliance by other taxpayers is persuasive rather than binding.

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_43_2019_mmf_26.09.2019.pdf

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