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| GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009. |  |
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ADVANCE RULING NO. GUJ/GAAR/R/2024/13
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2023/AR/32)

Date: - 30.05.2024

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| Name and address of the applicant | : | M/s. Bhagat Dhanadal Corporation 1, Bhagat Estate, Nr. Anupam Cinema, Khokhra, Ahmedabad, Gujarat- 380 021 |
| GSTIN of the applicant | : | 24AAIFB8411E1ZU |
| Date of application | : | 19.08.2023 |
| Jurisdiction Office | : | Center Commissionerate – Ahmedabad South Division - I Range -IV |
| Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised. | : | (a) |
| Date of Personal Hearing | : | 24.4.2024 |
| Present for the applicant | : | Shri Nitesh Jain, CA, Shri Krupen Patel, Shri Jay Dalwadi, Shri Dhruvin Patel and Shri Harsh Shah |

Brief facts:

M/s. Bhagat Dhanadal Corporation (for short-‘applicant’), 1, Bhagat Estate, Nr. Anupam Cinema, Khokhra, Ahmedabad, Gujarat- 380 021, is a partnership firm & their GSTIN number is 24AAIFB8411E1ZU.

2. The applicant deals in various types of seed mix, two of which are ‘Mix mukhwas’ and ‘Roasted til & ajwain’, which they claim is made up of mixed roasted and salted seeds. The applicant has submitted the making process and the ingredient composition, in respect of both these products viz.

[A] Process for making ‘Mix Mukhwas’

Step 1: Fennel seeds, Dill seeds & Ajwain seeds procured from vendors are cleaned, once at the vendor’s end and again at their end and stored in separate containers for use as per requirement;

Step 2: They also procure cleaned sesamum seeds from vendors which are again cleaned to remove any unwanted particles;

Step 3: Salt *(<0.5%) and Citric Acid *(<0.05%) are mixed together in water to create a solution, which is further mixed with sesame seed. This process is named salting. After salting, the mixture is rested overnight for the seeds to absorb the salty mixture;



Step 4: After the sesamum seeds have absorbed the salt overnight, the sesame seeds are machine cleaned to remove additional salt;

Step 5: sesamum seeds are then transferred to machine for roasting. While the sesame seeds are being roasted, turmeric powder *(<0.05%) is applied to them. Once roasting is done, the roasted sesamum seeds are further cleaned to remove additional turmeric powder and broken particles, if any. Later, the roasted sesame seeds are rested in a container to remove any excess heat generated in the process;

Step 6: The Fennel, Dill and Ajwain seeds are then roasted separately and mixed with roasted coriander seeds (Dhanadal) and roasted sesame seeds in desired proportion to complete the process;

Step 7: The product is then packed in pouches of 1.5g or pouches of 150g each for commercial sale.

Notes :

**Proportion of the specific product used in making of the final product.*

**There are no artificial flavors or sweetener used in the said process.*

Ingredient composition of Product : Mix Mukhwas (Table-I)

| Ingredient Name | % |
|-----------------------------|-------|
| Sesamum Seeds (Til seeds) | 60.00 |
| Coriander Seeds (Dhana Dal) | 27.00 |
| Fennel Seeds (Sanuf Seeds) | 8.00 |
| Dil Seeds (Suva Seeds) | 2.20 |
| Ajwain Seeds | 20.20 |

[B]Process for making Roasted Til & Ajwain

Step 1: Ajwain seeds are procured from vendor, which is cleaned once at the vendor's end and later, at the applicant's place also and stored in separate containers for use as per requirement;

Step 2: Likewise, they also procure cleaned sesamum seeds from vendor. The sesame seeds are again cleaned to remove any unwanted particles;

Step 3: Salt *(<0.5%) and Citric Acid *(<0.05%) are mixed together in water to create a solution, which is further mixed with sesamum seed. This process is named salting. After salting, the mixture is rested overnight for the seeds to absorb the salty mixture.

Step 4: After the sesamum seeds have absorbed the salt overnight, again the sesame seeds are machine cleaned to remove additional salt.

Step 5: Sesamum seeds are then transferred to machine for roasting. While the sesame seeds are being roasted, turmeric powder *(<0.05%) is applied to them. Once roasting is done, the roasted sesamum seeds are further cleaned to remove additional turmeric powder and any broken particles. Later, the roasted sesamum seeds are rested in a container to remove any excess heat generated in the process.

Step 6: Ajwain seeds are then roasted separately and mixed with roasted sesamum seeds in desired proportion to complete the process,

Step 7: The product is then packed in pouches 150g each for commercial sale

Notes :

**Proportion of the specific product used in making of the final product.*

**There are no artificial flavors or sweetener used in the said process*

Ingredient composition of Product : Roasted til and ajwain (Table-II)

| Ingredient Name | % |
|---------------------------|-------|
| Sesamum Seeds (Til seeds) | 97.00 |
| Ajwain Seeds | 2.40 |

3. The applicant further states that in both the products, as is evident from the table *supra*, there is dominating quantity of sesamum seeds, which is



60% in Mix mukhwas and 97%, Roasted Til & Ajwain. Further, in Mix mukhwas, in addition to sesamum seeds, dhanadal content is 27%, which when combined, totals to 87%. There is no element of pan masala, sugar or chocolate, preservatives or any other artificial flavoring substances used by them. These products are purchased by the customers who desire to consume sesamum seeds normally as a seed mix. The applicant is currently selling both the products by classifying it under HSN 12074090.

4. The applicant, in his application has further stated as follows viz

- that they manufacture seed mix that contains specified types of seeds;
- this process once done makes the seed mix edible in nature;
- as per the explanation in notification No. 1/2017-CT(R) dated 28.06.2017, interpretation of HSN shall be done as per the CTA '75 for the purpose of interpretation, explanation and classification of goods;
- mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable in terms of Rule 3(b) of the General Rules for Interpretation [GRI] of the 1st Schedule of the Customs Tariff Act, 1975 [CTA];
- chapter 12 of the CTA covers "*Oil seeds and oleaginous fruits, miscellaneous grains, seeds, and fruit; industrial or medicinal plants; straw and fodder*". The heading 1207 covers "*Other oil seeds and oleaginous fruits (i.e., Palm nuts and kernels, cotton seeds, Castor oil seeds, Sesamum seeds, Mustard seeds, Safflower (Carthamustinctorius) seeds, Melon seeds, Poppy seeds, Ajams, Mango kernel, Niger seed, Kokam) whether or not broken, other than of seed quality .*"
- sesamum seeds are classified under sub-heading 120740 under CTA; that since the products Mix Mukhwas and Roasted Til & Ajwain, contain a major element of sesame seeds it can be classified under sub-heading 120740 under CTA;
- *Mix Mukhwas* is a mixture of different categories of seeds of which 60% of the total mixture contains sesame seeds and 27% is of coriander seeds. As per rule 3(b) *supra*, both the products should be classified under the subheading TI 12074090 as "*Other oil seeds and oleaginous fruits, whether or not broken sesamum seeds: Other*";
- *Roasted Til and Ajwain* contain sesamum seeds as their main component. It contains 97% sesame seeds of the total mixture of seeds. Hence, the product should be classified under tariff item 12074090 as "*Other oil seeds and oleaginous fruits, whether or not broken sesamum seeds: Other*"
- according to the GRI, a heading that provides a specific description is preferred over the general description; that specific tariff item has been provided for sesamum seeds; that both products should be classified under the said specific heading;
- that even if rule 3(b) is taken, classification would be that of sesamum seeds as it is the main ingredient and both the products are named, known and consumed due this seed only;
- the rate of GST would be as per entry at Sr. No. 70 of Schedule-I of notification No. 1/2017-CT(R) dated 28.06.2017.

5. In view of the foregoing, the applicant has raised the following question for advance ruling viz

1. Whether the Products 'Mix Mukhwas' and 'Roasted Til & Ajwain' prepared and sold are covered by HSN code 12074090?



2. Whether the Products 'Mix Mukhwas' and 'Roasted Til & Ajwain' prepared and sold are covered by entry no. 70 of Schedule I of Notification No.1/2017-Central Tax (Rate) and taxed at the rate of 2.5% CGST and 2.5%% SGST or 5% IGST.

6. Personal hearing was granted on 24.4.2024 wherein Shri Nitesh Jain, CA, Shri Krupen Patel, Shri Jay Dalwadi, Shri Dhruvin Patel and Shri Harsh Shah appeared on behalf of the applicant & reiterated the submission. It was stated that the products on which ruling is sought were new products; that they wish to also rely on circular dated 15.4.1996. The authorized representative further also relied on the executive summary and additional submission dated 24.4.2024 provided during the course of personal hearing.

7. In the executive summary & additional submission, *supra*, the applicant further stated as follows:

- that the classification suggested is supported by the principle of specific over general heading as well as the dominant presence of sesamum seeds in the mixtures;
- that both products would fall under 12074090, more so owing to the significant presence of sesame seeds in both the products under question;
- that they wish to rely on circular No. 197/31/96-CX dated 15-04-1996;
- that the products offered by the applicant contain mainly sesamum seeds undergoing few processes, and having added substances namely salt, citric acid, etc.; that even after all these processes, their form does not change and is sold as seed mix (having sesamum seeds and Coriander seeds) and Roasted Til and Ajwain (Roasted sesamum Seeds and Ajwain seeds); that the basic nature of seeds does not alter even after undergoing the process;
- that both the products under consideration, which predominantly contain sesamum seeds maintain the character of "seeds" even after the process & should be classified under the heading 1207;
- that they wish to rely on the below mentioned case laws viz
 - D.S. Foods Ltd. [2009(239) E.L.T. 54 (Tri. - Del.)]
 - Crane Betel Nut Powder Works, [2007(208)ELT 376 (Tri.- Bang.)]
 - Aachi Masala Foods P. Ltd. [2017 (347) ELT 119 (Tri.-Chennai)]

7.1 The applicant thereafter also submitted a fresh additional submission dated 14.5.2024, wherein he reiterated the grounds already mentioned in the application and executive summary & additional submission. It was further stated that Revenue had filed an appeal against the judgement in the case of D S Foods, *supra*; that as per the Supreme Court website, Revenue's appeal was dismissed as withdrawn on account of low monetary grounds.

Discussion and findings

8. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions.



Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

10. The relevant extracts of the Customs Tariff Act, 1975, HSN, circular is reproduced for ease of reference viz

THE CUSTOMS TARIFF ACT, 1975

SECTION-II

CHAPTER-12

CHAPTER 12

Oil seeds and oleaginous fruits, miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder

NOTES :

1. Heading 1207 applies, *inter alia*, to palm nuts and kernels, cotton seeds, castor oil seeds, sesamum seeds, mustard seeds, safflower seeds, poppy seeds and shea nuts (karite nuts). It does not apply to products of heading 0801 or 0802 or to olives (Chapter 7 or Chapter 20).

HSN Explanatory Notes – Chapter 12

12

GENERAL

Headings 12.01 to 12.07 cover seeds and fruits of a kind used for the extraction (by pressure or by solvents) of edible or industrial oils and fats, whether they are presented for that purpose, for sowing or for other purposes. These headings do not, however, include products of heading 08.01 or 08.02, olives (Chapter 7 or 20) or certain seeds and fruits from which oil may be extracted but which are primarily used for other purposes, e.g., apricot, peach or plum kernels (heading 12.12) and cocoa beans (heading 18.01).

The seeds and fruits covered by the heading may be whole, broken, crushed, husked or shelled. They may also have undergone heat treatment designed mainly to ensure better preservation (e.g., by inactivating the lipolytic enzymes and eliminating part of the moisture), for the purpose of de-bittering, for inactivating antinutritional factors or to facilitate their use. However, such treatment is permitted only if it does not alter the character of the seeds and fruits as natural products and does not make them suitable for a specific use rather than for general use.

The headings exclude solid residues resulting from the extraction of vegetable oil from oil seeds or oleaginous fruits (including defatted flours and meals) (heading 23.04, 23.05 or 23.06).

THE CUSTOMS TARIFF ACT, 1975

| | | | | |
|------------|--|-----|-----|-----|
| 1207 | OTHER OIL SEEDS AND OLEAGINOUS FRUITS, WHETHER OR NOT BROKEN | | | |
| 1207 10 | - Palm nuts and kernels: | | | |
| 1207 10 10 | - - - Palm nuts | kg. | 30% | 20% |



| (1) | (2) | (3) | (4) | (5) |
|------------|---|-----|-----|-----|
| 1207 10 90 | - - - Palm kernels | kg. | 30% | 20% |
| | - Cotton seeds : | | | |
| 1207 21 00 | -- Seed | kg. | 30% | 20% |
| 1207 29 00 | -- Other | kg. | 30% | 20% |
| 1207 30 | - Castor oil seeds: | | | |
| 1207 30 10 | --- Of seed quality | kg. | 30% | 20% |
| 1207 30 90 | --- Other | kg. | 30% | 20% |
| 1207 40 | - Sesamum seeds: | | | |
| 1207 40 10 | --- Of seed quality | kg. | 30% | 20% |
| 1207 40 90 | --- Other | kg. | 30% | 20% |
| 1207 50 | - Mustard seeds: | | | |
| 1207 50 10 | --- Of seed quality | kg. | 30% | 20% |
| 1207 50 90 | --- Other | kg. | 30% | 20% |
| 1207 60 | - Safflower (<i>Carthamus tinctorius</i>) seeds | | | |
| 1207 60 10 | --- Of seed quality | kg. | 30% | 20% |
| 1207 60 90 | --- Other | kg. | 30% | 20% |
| 1207 70 | - Melon seeds: | | | |
| 1207 70 10 | --- Of seed quality | kg. | 30% | 20% |
| 1207 70 90 | --- Other | kg. | 30% | 20% |
| | - Other : | | | |
| 1207 91 00 | -- Poppy seeds | kg. | 20% | 60% |
| 1207 99 | -- Other : | | | |
| 1207 99 10 | --- Ajams | kg. | 30% | 20% |
| 1207 99 20 | --- Mango kernel | kg. | 30% | 20% |
| 1207 99 30 | --- Niger seed | kg. | 30% | 20% |
| 1207 99 40 | --- Kokam | kg. | 30% | 20% |
| 1207 99 90 | --- Other | kg. | 30% | 20% |

11. The primary contention of the applicant is that sesamum seeds [Til] is the main seed constituent in both the products in respect of which ruling is sought; that sesamum seeds are classifiable under chapter 12 of CTA '75; that the other seeds in the product are classified under chapter 9, *ibid*; that heat treatment done in respect of the product is only for preservation and that the heating process does not convert it into any specific use; that they have chosen to treat them further by way of flavoring & use them in the said two products; that in terms of 3(b) of GRI, mixtures will be classified as per the dominating product which gives the essential character which in their case is sesamum seeds; that they are of the opinion that both the products falls under 12074090 & is leviable to tax under 5% GST.

12. As far as the first product 'Mix Mukhwas' is concerned, the composition and the process are enumerated in the paragraphs above; that the product mainly comprises of sesamum seeds [60%] and coriander seeds [27%]. The process undertaken is that the seeds after being cleaned are mixed with salt and citric acid solution for salting; that the same is thereafter roasted, cleaned and turmeric powder is added & subsequently packed and sold.

13. Regarding the second product 'Roasted til and ajwain' the composition and the process again are enumerated in the paragraphs above; that the product mainly comprises of sesamum seeds [97%] and Ajwain seeds [2.4%]. A similar process to the one mentioned above is undertaken in respect of this product also.



14. It is also the applicant's claim that there is no element of pan masala, sugar or chocolate, preservatives or any other artificial flavoring substance added to their product.

15. We find that the General Rules for Interpretation [GRI] of Customs Tariff as applicable to GST Tariff state as under viz [relevant extracts]:

2. (a)

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a)

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

It is evident that in terms of the Rule *supra* classification of goods consisting of more than one material or substance shall be in terms of rule 3. Further, in terms of 3(b), mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

16. The composition of both the products, in respect of which ruling is sought, clearly show that these products, mainly comprise of sesamum seeds i.e. 60% in respect of the first product and 97% in respect of the second product.

17. Now, we find that as far as sesamum seeds are concerned, they are classifiable under Chapter 12. Chapter 12 bears the heading 'Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder'. While item 1201 deals with soya beans, whether broken or not, item 12.02, deals with ground-nuts, item 1203 deals with copra,



item 1204 with linseed, whether broken or not, item 12.05 deals with rape-seeds or colza-seeds, whether or not broken, item 1206 deals with sunflower seeds, whether or not broken and item 1207.00 to item 1209.29 deals with different types of seeds. Heading 1207, applies *inter alia* to sesamum seeds. HSN explanatory notes further states that headings 12.01 to 12.07 cover seeds & fruits of a kind used for extraction, whether they are presented for that purpose, for sowing or for other purpose; that the heading does not cover products of heading 08.01 or 08.02, olives, certain seeds and fruits from which oil may be extracted but which are primarily used for other purposes eg apricot, peach or plum kernels and coca beans.

18. The HSN explanatory notes to chapter 12 further states that the seeds covered by the heading may be whole, broken, crushed, husked or shelled; they may also have undergone heat treatment designed mainly to ensure better preservation for the purpose of de-bittering for inactivating anti factors or to facilitate their use; that such treatment is permitted only if it does not alter the character of the seeds & does not make them suitable for a specific use rather than for general use.

19. The applicant has stated that the heat treatment done on the seeds is for preservation only and the said treatment does not convert them for any specific use; that they can be used for any purpose; that they have chosen to treat them further by way of flavouring & use them in the said two products.

20. We find that both the products, mainly comprises of sesamum seeds 60% in respect of the first product and 97% in respect of the second product; that the process undertaken on the said seeds of cleaning, mixed with salt and citric acid solution for slating purpose, roasting adding turmeric powder does not take away the product from the ambit of chapter 12 in terms of either the chapter note or the HSN notes. Further, we also rely on Rule 3(b) of the GRI *supra* which clearly states that owing to the mixture when the goods are classifiable under two or more heading, the product shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable. We therefore, find that the



product is classifiable under chapter 12 of the Customs Tariff Heading, specifically CTH 12074090.

21. We find that the applicant has heavily relied upon circular no. 197/31/96-Cx dated 15.4.1996 and three case laws. The reliance of the applicant to the said circular and the case law is not tenable owing to the fact that the circular is in respect of coriander seeds and the circular concludes that the same is covered under chapter 9, specifically 09.09 of HSN. The circular relies on two things [a] HSN explanatory notes to chapter 9 and [b] chapter note of chapter 21 [which was the competing entry].

22. HSN explanatory notes to chapter 9, states as follows [relevant extracts]

Notes.

1.- Mixtures of the products of headings 09.04 to 09.10 are to be classified as follows :

(a) Mixtures of two or more of the products of the same heading are to be classified in that heading;

(b) Mixtures of two or more of the products of different headings are to be classified in heading 09.10.

The addition of other substances to the products of headings 09.04 to 09.10 (or to the mixtures referred to in paragraph (a) or (b) above) shall not affect their classification provided the resulting mixtures retain the essential character of the goods of those headings. Otherwise such mixtures are not classified in this Chapter, those constituting mixed condiments or mixed seasonings are classified in heading 21.03.

Such a note is absent as far as chapter 12, is concerned.

23. The chapter note referred in chapter 21, is as under

Notes.

1.- This Chapter does not cover :

(a) Mixed vegetables of heading 07.12;

(b) Roasted coffee substitutes containing coffee in any proportion (heading 09.01);

(c) Flavoured tea (heading 09.02);

(d) Spices or other products of headings 09.04 to 09.10;

The exclusion in 1(d) talks only of chapter 9 and not of 12. Thus the circular relied upon by the applicant is not a tenable argument. Even the three case laws relied upon by the applicant is not of much help. However, this is only academic, since we have already held that the product of the applicant would fall under chapter heading 12074090 in view of our findings recorded *supra*.

24. As far as rate of GST is concerned, we find that both the products classified under tariff item 12074090 and would be leviable to GST @ 25%



CGST and 2.5% SGST in terms of entry no. 70 of schedule to notification No. 1/2017-CT (Rate)

25. In view of the foregoing, we pass the following ruling

RULING

1. The products 'Mix Mukhwas' having ingredient composition as mentioned in Table-I of paragraph 2 and 'Roasted Til & Ajwain' having ingredient composition as mentioned in Table-II of paragraph 2 prepared and sold are covered by Tariff Item 12074090 of Customs Tariff Act, 1975.
2. The products 'Mix Mukhwas' and 'Roasted Til & Ajwain' prepared and sold are covered by entry no. 70 of Schedule I of Notification No.1/2017-Central Tax (Rate) and taxed at the rate of 2.5% CGST and 2.5% SGST or 5% IGST.

(MILIND KAVATKAR)
MEMBER (SGST)

(AMIT KUMAR MISHRA)
MEMBER (CGST)

Place: Ahmedabad
Date: 30 /05/2024



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