



RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX, KAR BHAWAN,
AMBEDKAR CIRCLE, NEAR RAJASTHAN
HIGH COURT
JAIPUR - 302005 (RAJASTHAN)



ADVANCE RULING NO. RAJ/AAR/2024-25/16

Mahipal Singh Additional Commissioner	:	Member (Central Tax)
Mahesh Kumar Gowla Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s VRB CONSUMER PRODUCTS PRIVATE LIMITED, SP-17 RIICO INDUSTRIAL AREA, NEEMRANA, ALWAR - 301705, Rajasthan
GSTIN of the applicant	:	08AAECV2035K1Z9
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	(a) Classification of goods and/or services or both
Date of Personal Hearing	:	26.06.2024
Present for the applicant	:	Adv. Narendra Singhvi, Adv. Shrishti Agarwal
Date of Ruling	:	31.07.2024

Note 1: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling, constituted under Section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

Note 2: At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST 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 provision under the SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s VRB CONSUMER PRODUCTS PRIVATE LIMITED, SP-17 RIICO INDUSTRIAL AREA, NEEMRANA, ALWAR - 301705, Rajasthan (hereinafter "*the applicant*") is fit to pronounce advance ruling as they have deposited prescribed Fee under CGST Act and it falls under the ambit of the Section 97(2)(a) given as under:

(a) Classification of goods and/or services or both

A. SUBMISSION OF THE APPLICANT (in brief):-

1. VRB Consumer Products Private Limited ("**Applicant**") intends to manufacture and supply dried softy ice cream mix (low fat) in vanilla flavour ("**Vanilla Mix**") at its manufacturing unit (factory) located at Plot SP3-7, RIICO Industrial Area, Tehshil Kotputli, Keshwana, Jaipur, in Rajasthan.
2. Applicant is a company incorporated under the Companies Act, 1956. It has PAN-India distribution network. Applicant with GSTIN 08AAECV2035K1Z9 is registered with the Goods and Services Tax department in the State of Rajasthan and falls within the administrative jurisdiction of CGST Commissionerate Alwar, Rajasthan.

3. Applicant intends to manufacture Vanilla Mix, which will be in the form of powder and will contain the following ingredients:

Sr. No.	Ingredients	Vanilla Mix
1	Sugar	61.2%
2	Milk Solids (Skimmed Milk Powder)	34%
3	Other ingredients (stabilizers, anti-caking agents, citrus fibre, iodised salt, flavouring substances)	4.8%

Copy of label is also enclosed as with the application.

4. The following will be the manufacturing process of Vanilla Mix:

- a. **Procurement of raw materials** – Firstly, raw materials such as milk solids, sugar, stabilizers, anti-caking agents etc. will be procured. Upon receipt thereof, applicant will undertake rigorous scrutiny and inspection of such raw materials. Thereafter, the raw materials which will meet the quality standards of applicant than these materials will be stored under appropriate conditions.
- b. **Mixing of ingredients** – The raw materials sourced and stored above will be weighed, sieved and subsequently, mixed with each other in required proportion for the required time and speed in a mechanical mixer.
- c. **Quality check** – The mixture obtained above will thereafter be subjected to sensory evaluation, metal detection and moisture determination. Mixtures, which will pass the evaluation, shall be proceed ahead for packing.
- d. **Packing and dispatch** – Mixtures, which will be received after a quality check, will undergo the primary packing and thereafter will be packed in cartons. The cartons will, subsequently, be stored in godown from where they will be dispatched after micro-testing.

5. Vanilla Mix will be sold in packages not exceeding 1kg to institutional buyers, who will use the same to produce soft serves using softy making machines. Further, Vanilla Mix will not be sold through confectionery outlets.

B. INTERPRETATION AND UNDERSTANDING OF APPLICANT ON QUESTION RAISED (IN BRIEF)

1. At the outset, it is made clear that the provisions of both CGST Act and RGST Act and rules made there under are same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the RGST Act and vice versa.
2. It is submitted that the advance ruling sought in the instant matter relates to determination of classification of Vanilla Mix under Notification No.1/2017-Central Tax (Rate) dated 28.6.2017 (“**Rate Notification**”).
3. The question relating to determination of classification of Vanilla Mix under Rate Notification is eligible to be posed for advance ruling before the Advance Ruling Authority in terms of Section 97(2)(a) of CGST Act. Similar provisions are contained in Section 97 of RGST Act.
4. Further, Applicant is also registered in the state of Rajasthan. Hence, the present advance ruling application is maintainable before the Hon’ble Rajasthan Authority for Advance Ruling.

APPLICANT’S UNDERSTANDING

5. Applicant's interpretation is that Vanilla Mix is liable to be classified under Heading 0404 as mentioned at Sr. No. 10 of Schedule I to Rate Notification.

Schedule I – 2.5%

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
10	0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included

6. The submissions in support of the aforesaid interpretation have been enunciated in the following paragraphs.
7. Rate Notification has been divided into seven schedules, wherein each schedule prescribes the applicable rate of tax under GST law on the basis of 'Tariff item', 'Sub-heading', 'Heading' and 'Chapter'.
8. Explanation (iii) of Rate Notification provides that the above terms in Rate Notification refer respectively to 'Tariff item', 'Sub-heading', 'Heading' and 'Chapter' as specified in the First Schedule to the Customs Tariff Act, 1975 ("CT Act"). The Explanation (iv) also borrows the General Rules of Interpretation ("GRIs") specified in the First Schedule.
9. It follows from the above that classification of goods under the GST law is governed by First Schedule to CT Act.
10. At this juncture, it may be noted that classification under the First Schedule to CT Act is governed by GRIs. Rule 1 of GRIs *inter alia* specifies that for legal purposes, classification is to be determined according to the terms of the Headings and any relative Section or Chapter Notes.
11. Thus, Vanilla Mix will have to be classified in accordance with the terms of the headings and the relevant Section or Chapter Notes.
12. In the instant case, the relevant Heading of the First Schedule to CT Act ("CH") for classification of Vanilla Mix is Heading 0404.
13. Heading 0404 *inter alia* covers "*products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included*".
14. Heading 0404 seeks to cover within in its ambit, products which consist of natural milk constituents, thus as long as any product contains natural milk constituents, it shall be classified under Heading 0404.
15. It is submitted that Vanilla Mix is classifiable under Heading 0404 only. Description of this heading, as already noted, covers products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter. In other words, a product, which has natural milk constituents, shall be classifiable under Heading 0404, irrespective of presence of other ingredients therein. In the instant case, Vanilla Mix has amount 34% of milk solids, which is a natural milk constituent, and thus, it is classifiable under Heading 0404.
16. Even otherwise, it is submitted that milk solids, a natural milk constituent, is the essential ingredient of Vanilla Mix.
17. In the instant case, Vanilla Mix *inter alia* consists of milk solids (skimmed milk powder which is a natural milk constituent) which is about 34% and sugar which is about 61.2% along with minuscule quantity of

- stabilisers, anti-caking agents, and less than 1% of flavouring agents, which, in total, are about 4.8%.
18. The essential ingredient of Vanilla Mix is milk solids, which forms the basis of the product. Milk solids refers to the dried powder left after all the water is removed from natural liquid milk. It is made by evaporating milk and spraying into a heated area where it leaves a powdery residue.
 19. Milk solids also consist of the protein, and it helps in improving the texture of soft serve, due to the protein functionality. It helps in providing chew resistance to soft serve, helps in improving whip ability and helps in reducing freezing point of soft serve.
 20. If solids levels are too low, soft serve can lack texture, freeze too hard, and may have textural problems like iciness and if solids levels are too high soft serve can be excessively chewy or cakey and it may get grainy texture. Thus, milk solids play a vital role in Vanilla Mix, which makes it an essential ingredient.
 21. Therefore, once the condition of natural milk constituents i.e., milk solids being essential ingredient is satisfied, the product is liable to be classified under Heading 0404.
 22. Reliance is placed upon *LVP Foods Private Limited, 2020 (32) G.S.T.L. 612 (A.A.R. - GST - U.P.)*, wherein it was held that the Instant Tea Whitener cannot be manufactured without milk and all other ingredients are ancillary in nature. Thus, main ingredient/essential character of the product in question is given by liquid milk.
 23. Applying the said ratio in present matter, it can be concluded that Vanilla Mix cannot be manufactured without milk solids, therefore, milk solids (natural milk constituent) is the main ingredient/essential character of Vanilla Mix.
 24. Further, Heading 0404 covers a product, which consists of natural milk constituents, so long as the same is not elsewhere specified or included. The phrase “not elsewhere specified or included” is of relevance and significance. The true meaning of this phrase is that if a product consists of milk constituent, so long as the same is not specifically covered elsewhere in Rate Notification or tariff, the same would continue to remain classified under Heading 0404.
 25. The expression “not elsewhere specified or included”, would mean either coverage by name or by description in some other heading of Rate Notification or tariff and not any general expression. In present matter, the product i.e., Vanilla Mix is not specified elsewhere in the tariff either by name or by description. Hence, Vanilla Mix is liable to be classified under Heading 0404.
 26. In this regard, reliance is placed upon judgment of Hon’ble Supreme Court in *Commissioner of Central Excise vs. Amrit Food, 2015 (324) E.L.T. 418 (SC)*, wherein it was held that soft serve mix and milk shake mix are liable to be classified under tariff Heading 0404.
 27. The judgment of Hon’ble Supreme Court in *Amrit Foods (supra)* was also followed in *Samianka Foods Pvt. Ltd. vs. CC, Chennai-IV, 2017 (11) TMI 1320 - CESTAT Chennai*.
 28. Thus, it is submitted that the product in present matter i.e., Vanilla Mix is liable to be classified under Heading 0404. Accordingly, Heading 0404 is mentioned at Sr. No. 10 of Schedule I to Rate Notification and the rate of tax applicable on the supply of Vanilla Mix under Section 9(1) of CGST Act is 2.5%.

C. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:

Q. What will be the rate of tax and classification of dried softy ice cream mix (low fat) in vanilla flavour under Notification No.1/2017-Central Tax (Rate) dated 28.6.2017?

D. PERSONAL HEARING

In the matter, personal hearing was granted to the applicant on 26.06.2024. Advocate Narendra Singhvi, Advocate Shrishti Agarwal authorized representative appeared for personal hearing. They reiterated the submission already made by them.

E. COMMENTS OF THE JURISDICTIONAL OFFICER:-

Comments received from the Assistant Commissioner, CGST Division-E, RIICO Industrial Area, Behror, Alwar, Rajasthan vide letter C.NO. IV-39(07)Misc Report/BEH/2022/Pt-I/316 dated-25.06.2024 are as under: -

At the outset it is submitted that FORM GST ARA-01 dated 20.03.2024 has been filed by M/s VRB Consumer Products Private Limited, SP-17, RIICO Industrial Area, Neemrana, District- Alwar whereas the product information label submitted along with the application indicates that the product in question is proposed to be manufactured by M/s VRB Consumer Products Private Limited, Plot No. SP3-7, RIICO Industrial Area, Keshwana, Tehsil- Kotputli, District- Jaipur (Rajasthan). Thus, it is serious contradiction as regards the identity of the manufacturer registered person and the applicant registered person who are clearly distinct persons in law. However, without commenting upon the possible error in printing or otherwise, it has been assumed that the registered person who has filed the FORM GST ARA-01 is the applicant who proposes to manufacture the item in question for supply and comments on the application are being submitted accordingly.

2. The applicant, M/s VRB Consumer Products Private Limited, Neemrana has sought advance ruling on the question of classification of the product intended to be manufactured by them.

3.1. According to the statement of relevant facts, the applicant intends to manufacture and supply dried softy ice cream mix (low-fat) in vanilla flavour (vanilla mix) at its factory.

3.2. As per the applicant's interpretation of law, it is their understanding that the product intended to be manufactured by them is liable to be classified under headings 0404 of the First Schedule to the Customs Tariff Act, 1975 and accordingly, the rate of tax applicable on the supply of the same under section 9(1) of the CGST Act, 2017 is 2.5% as mentioned at serial number 10 of Notification Number 1/2017-Central Tax (Rate), dated 28.06.2017.

4. The reasoning given by the applicant for classification of the product under Heading 0404 is as follows:-

- (i) Heading 0404 covers products consisting of natural milk constituents whether or not containing added sugar or other sweetening matter, not elsewhere specified or included;
- (ii) The product consists of milk solids which is a natural milk constituent;

- (iii) The product consists of 34% milk solids i.e. skimmed milk powder which is a natural milk constituent and 61.2% sugar while the remaining 4.8% would be stabilisers, anti-caking agents and flavouring agents;
- (iv) The essential ingredient of the product is milk solids which forms the basis of the product;
- (v) Too low or too high levels of milk solids may have textural problems and, thus, milk solids play a vital role in the product and accordingly, milk solids is an essential ingredient of the product;
- (vi) Classification should be decided based on the main ingredient/ essential character of the product which in the instant case is liquid milk; and
- (vii) The expression 'not elsewhere specified' means either coverage by name or description in some other heading of tariff and not by general expression and in the instant case the product is not specified elsewhere in the tariff either by name or description.

5. On examination of the facts submitted by the applicant and from perusal of the chapter notes, it is observed that Chapter 4 of the First Schedule to the Tariff Act is meant for 'Dairy Produce etc.' which is part of Section I which broadly covers 'Animal Products'. According to Chapter Note 5 of Chapter 4, this Chapter does not cover products obtained from milk by replacing one or more of its natural constituents (for example, butyric fats) by another substance (for example, oleic fats) (heading 1901 or 2106). Thus, it is evident that if a product is covered by heading 1901 or 2106 the same shall not be covered under Chapter 4 of the First Schedule to the Tariff Act.

6.1. Chapter 21 of the First Schedule to the Tariff Act covers 'Miscellaneous edible preparations' and the said Chapter is part of the broad head of 'Prepared food stuffs, beverages, spirits and vinegar' under Section IV of the First Schedule to the Tariff Act. Thus, according to the broad scope of different sections of the First Schedule to the Tariff Act, "prepared foodstuffs and beverages" are clearly distinguishable from "products of animal origin", the basic difference being the nature of products in question. While Chapter 4 covers products of animal origin which means that the products are normally natural or near natural in their nature and not much processing has been done thereupon, Chapter 21 covers prepared foodstuffs which means that those items of animal origin have been subjected to some processing which and the resultant product has acquired the nature of being prepared foodstuff etc.

6.2. The product in the question which the applicant proposes to manufacture is obtained by a process of manufacture which involves not only processing of liquid milk to obtain milk solids but also the further process to which different ingredients such as sugar, stabilisers, anti-caking agents and flavouring agents are subjected along with milk solids. Thus, the process of manufacture as described by the applicant involves manufacture of an edible preparation which can be broadly termed as prepared foodstuff or beverages etc. Thus, the multi-stage process adopted by the applicant to obtain the proposed product and use of various distinct items in the said process to obtain the desired edible preparation is the key factor that should determine the classification of the product to be manufactured by the applicant.

6.3. Chapter Note 5 of Chapter 21 of the First Schedule to the Tariff Act provides in detail as to which type of edible preparations can be covered under Heading 2106. The said Chapter Note specifies, inter-alia, that Heading 2106 (except tariff items 2106 90 20 and 2106 90 30), inter-alia, includes:-

“(a) protein concentrates and textured protein substances;

- (b) preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption;
 - (c) preparations consisting wholly or partly of foodstuffs, used in making of beverages of foods preparations for human consumption;
 - (d) powders for table creams, jellies, ice-creams and similar preparations, whether or not sweetened;
- XXXXX”.

6.4 Perusal of the said Chapter Note 5 would reveal that preparation for use for human consumption, even if required to be subjected to further processing are to be covered under Heading 2106. Similarly, powders for ice-creams and similar preparations are also covered under Heading 2106. Likewise preparations used in making of beverages of food preparations for human consumption are also covered by the said Heading. These examples of items of coverage by Heading 2106 indicate that a wide range of edible preparations are covered by Heading 2106 and even such preparations which are required to be subjected to further processing for obtaining the preparations for human consumption are also covered by the said Heading 2106.

7.1. According to the product information label submitted by the applicant, the product proposed to be manufactured by the applicant contains a wide range of ingredients. The information label shows that the product is not simply a dairy produce which may be referred to as a product of animal origin rather the same is an edible preparation which contains sugar, milk solids, stabilisers, citrus fibre, anti-caking agents, iodised salt and natural flavouring agents as its ingredients.

7.2. Further, the label also has nutritional information showing the nutritional values of various contents of energy, protein, carbohydrate, total sugar, added sugar, total fat, trans fat, saturated fat, cholesterol and sodium in the said product which has been given for the information of the ultimate human consumer. Thus, it is evident that the product in question is an item of edible preparation obtained by a complete process of manufacture and not simply a dairy produce. Thus, the coverage of proposed item of supply under Heading 2106 is appropriate and deserving.

7.3. In view of the facts as submitted by the applicant and the detailed discussion of Chapter Notes it is also submitted that the case laws as cited by the applicant are not much of relevance to the instant question which has been proposed in the application.

8. The applicant has also stressed upon the fact that the proposed item of supply is sold to institutional buyers who will use the same to produce soft serves using softy making machines. The information label proposed to be pasted on the packings has also been designed to indicate in bold capitals an information stating that the product is “NOT FOR RETAIL SALE INTENDED FOR INSTITUTIONAL USE ONLY.” Though it is not clear as to whether the said information is proposed to be printed as a warning or as a deterrent against possible misuse and also it makes absolutely no difference as to who is the targeted recipient of supply so far as classification of a product in question is concerned. However, the nutritional information given for per serve percent recommended dietary allowance requirement for average adult per day and the suggested instructions for use of the item by the consumer clearly establish that the proposed product is an edible/ food preparation for human consumption only.

9. Thus, it is submitted that the proposed product is appropriately classifiable under Heading 2106 90 99 of the First Schedule to Tariff Act attracting tax at the rate of 9% of CGST and 9% of SGST and the Hon’ble Advance Ruling Authority may kindly like to consider the above submissions suitably while deciding the advance ruling application submitted by M/s VRB Consumer Products Private Limited, SP-17. RIICO

F. FINDINGS, ANALYSIS & CONCLUSION:

- 1) We have carefully examined the statement of facts, supporting documents filed by the applicant along with the application, oral and written submissions made at the time of hearing and the comments of the Central Tax Authority. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.
- 2) The Applicant, M/s VRB Consumer Products Private Limited, is a company incorporated under the Companies Act, 1956 and is registered with the GST department having GSTIN 08AAECV2035K1Z9. The applicant intends to manufacture and supply dried softy ice cream mix (low fat) in vanilla flavour ("Vanilla Mix") at its manufacturing unit (factory) located at Plot SP3-7, RIICO Industrial Area, Tehshil Kotputli, Keshwana, Jaipur, in Rajasthan. The said product i.e. dried softy ice cream mix (low fat) in vanilla flavour ("Vanilla Mix") will be in the form of powder and will contain the following ingredients:

Sr. No.	Ingredients	Vanilla Mix
1.	Sugar	61.2%
2.	Milk Solids (Skimmed Milk Powder)	34%
3.	Other ingredients (stabilizers, anti-caking agents, citrus fibre, iodised salt, flavouring substances)	4.8%

They have submitted copy of label and has explained the manufacturing process of Vanilla Mix which includes (i) Procurement of raw materials, (ii) Mixing of ingredients, (iii) Quality check up and (iv) Packing and dispatch.

- 3) Applicant has submitted that their product - Vanilla Mix is liable to be classified under Heading 0404 as mentioned at Sr. No. 10 of Schedule I to Rate Notification which defines as "*Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included*". They have stressed that milk solids is the essential ingredient of Vanilla Mix. Milk solids also consist of the protein, and it helps in improving the texture of soft serve, due to the protein functionality. It helps in providing chew resistance to soft serve, helps in improving whip ability and helps in reducing freezing point of soft serve. If solids levels are too low, soft serve can lack texture, freeze too hard, and may have textural problems like iciness and if solids levels are too high soft serve can be excessively chewy or cakey and it may get grainy texture. Thus, milk solids play a vital role in Vanilla Mix, which makes it an essential ingredient. They have also submitted that Vanilla Mix cannot be manufactured without milk solids, therefore, milk solids (natural milk constituent) is the main ingredient/essential character of Vanilla Mix and therefore, their product is liable to be classified under Heading 0404.
- 4) We next take up the classification of 'dried softy ice cream mix (low fat) in vanilla flavour'. We find that the classification of goods under GST regime has to be done in accordance with the Customs Tariff Act, 1975, which in turn is based on Harmonized System of Nomenclature, popularly known as

'HSN'. The rules of interpretation, section notes and chapter notes as specified under the Customs Tariff Act, 1975 are also applicable for classification of Goods under GST regime. However, once an item is classified in accordance with the Customs Tariff Act, 1975, the rate of tax applicable would be arrived at on the basis of notifications issued under GST by the respective Governments.

- 5) We find that the product in question is dried softy ice cream mix (low fat) in vanilla flavour named as "Vanilla Mix". We find that the constituent of the product is Sugar-61.2%, Milk Solids-34%. Other ingredients viz. stabilizers, anti-caking agents, citrus fibre, iodised salt, Natural flavouring substances (Vanilla)-4.8%.

We find that Chapter 4 of the First Schedule to the Tariff Act is meant for 'Dairy Produce ; birds' eggs; natural honey; edible product of animal origin, not elsewhere specified or included' which is part of Section I which broadly covers 'Animal Products'. Further, Heading 0404 defines as "products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included"

From bare perusal of the above heading, it is evident that it refers to products consisting of natural milk constituents may or may not consist added sugar or other sweetening matter. However, in the instant product, the amount of sugar is 61.2% and milk solids is 34% which is about 55.56% as compared to the amount of sugar (34/61.2) which implies that the major ingredient of the product is sugar. Accordingly, it would be appropriate to say that in the product in question, "milk solids are added to sugar" and not that "sugar is added to milk solids". Further, we also find that 5 more ingredients viz. stabilizers (INS466, INS407, INS412), citrus fibre, anti-caking agents, iodised salt, natural flavouring substances (Vanilla) total 4.8% are also added in the instant product. We find that said products are not only for increasing the shelf life of the product but substances like natural flavouring substances (Vanilla) gives the vanilla flavour to the product which is the key identity of the product, a combination of citrus fibre and stabilizer produce desirable ice cream properties, Iodised salt helps in lowering the freezing/melting point.

- 6) From the sample packaging of the product submitted by the applicant, we find that instructions for use of the product are also suggested on the said packaging which directs for mixing of 1Kg of the product in 2.75 Litre cool drinking water and then after few phases of mixing, freezing the same in soft serve machine. This indicates that the said product is intended to be used to make soft serves using soft serve machines as also claimed by the applicant in its application. We find that a soft serve machine works on a continuous process of freezing and churning/agitating to create the smooth and creamy texture characteristic of soft serves. The key is to freeze the mix while simultaneously churning/agitating it.
- 7) In view of above discussion, we find that the product in question i.e. "Vanilla Mix" - dried softy ice cream mix (low fat) in vanilla flavour comprise of several ingredients and each ingredient play a vital role in the product. Since this product is intended to use for making of soft serves, each ingredient has a specific role to make the soft serve smooth and creamy in texture. Further, it is also conclusive that not only the contents of the product in question but the

processing done in the soft serve machine also play a vital role in giving the smooth and creamy texture characteristic of soft serves.

- 8) In view of above, we find that the submissions made by the applicant are not enable and the product in question does not fall under the Heading 0404.
- 9) Further, we find that Chapter 21 of the First Schedule to the Tariff Act covers 'Miscellaneous edible preparations' which is clearly distinguishable from "products of animal origin", the basic difference being the nature of products in question. While Chapter 4 covers products of animal origin which means that the products are normally natural or near to natural in their nature and not much processing has been done thereupon, on the other hand Chapter 21 covers prepared foodstuffs which means that those items of animal origin have been subjected to some processing which and the resultant product has acquired the nature of being prepared foodstuff etc.
- 10) Chapter Note 5 of Chapter 21 specifies, inter-alia, that Heading 2106 (except tariff items 2106 90 20 and 2106 90 30), inter-alia, includes:-
 - (a) protein concentrates and textured protein substances;
 - (b) preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption;
 - (c) preparations consisting wholly or partly of foodstuffs, used in making of beverages of foods preparations for human consumption;
 - (d) powders for table creams, jellies, ice-creams and similar preparations, whether or not sweetened;
 - (e) flavouring powders for making beverages, whether or not sweetened;
 - (f) preparations consisting of tea or coffee and milk powder, sugar and any other added ingredients;
 - (g) preparations (for example, tablets) consisting of saccharin and foodstuff, such as lactose, used for sweetening purposes;
 - (h) pre-cooked rice, cooked either fully or partially and their dehydrates; and
 - (i) preparations for lemonades or other beverages, consisting, for example, of flavoured or coloured syrups, syrup flavoured with an added concentrated extract, syrup flavoured with fruit juices and concentrated fruit juice with added ingredients.

Perusal of the said Chapter Note 5 reveals that food preparations subjected to further processing for human consumption are covered under Heading 2106. It is also apparent that powders for ice-creams and similar preparations are also covered under Heading 2106. Further, preparations consisting of milk powder, sugar and any other added ingredients are also included under Heading 2106. Powder for table cream, jellies, ice-cream and similar preparations, whether or not sweetened are also included in Heading 2106. It is also evident that the product in question cannot be termed as a dairy produce.

- 11) It is also observed that case laws cited by the applicant cover different products and are not squarely applicable in the instant case.
- 12) Thus, we find that the product i.e. "**Vanilla Mix**" - dried softy ice cream mix (low fat) in vanilla flavour is classifiable under Heading 2106 90 99 of the First Schedule to Tariff Act attracting tax at the rate of 9% of CGST and 9% of SGST.

13) In view of the above discussion, we rule as under:-

RULING

Question - What will be the classification and rate of tax of dried softy ice cream mix (low fat) in vanilla flavour under Notification No.1/2017-Central Tax (Rate) dated 28.6.2017?

Answer – The product i.e. “Vanilla Mix” - dried softy ice cream mix (low fat) in vanilla flavour is classifiable under Heading 2106 90 99 of the First Schedule to Tariff Act attracting GST at the rate of 18%@ (i.e. 9% CGST and 9% SGST)

A
31/07/2024
(Mahipal Singh)
MEMBER
CENTRAL TAX



W
31/07/2024
(Mahesh Kumar Gowla)
MEMBER
STATE TAX

Date: 31/07/2024

F. No. AAR/SF/2024-25/ 117-122

SPEED POST

M/s VRB CONSUMER PRODUCTS PRIVATE LIMITED,
SP-17 RIICO INDUSTRIAL AREA, NEEMRANA,
ALWAR - 301705, Rajasthan

Copy to: -

1. The Chief Commissioner of CGST and Central Excise (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan-302005.
2. The Chief Commissioner of State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur-302005.
3. The Commissioner of CGST and Central Excise Commissionerate, ALWAR, Rajasthan.
4. The Assistant Commissioner of CGST Division-E, RIICO Industrial Area, Behror, Alwar, Rajasthan.
5. The Assistant Commissioner of State Tax Circle –Shahjahanpur, Alwar Divisional Kar Bhawan.

O/C

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