

**GUJARAT AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD - 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/21/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/53)

Date: 08.07.2021

Name and address of the applicant	:	M/s. Global Gruh Udyog, Room No.1, Survey No.149/2, Opp.Dholka (Rampur), GIDC, Dholka-Kheda road, Ahmedabad-382225.
GSTIN of the applicant	:	Unregistered
Date of application	:	16.12.2020
Clause(s) of Section 97(2) of CGST/ GGST Act, 2017, under which the question(s) raised.	:	(a)Classification of goods or services or both.
Date of Personal Hearing	:	15.06.2021(Through online hearing)
Present for the applicant	:	Shri Brijesh Thakar, C.A.

BRIEF FACTS

The applicant M/s. Global Gruh Udyog submitted that they are planning to manufacture: PuriPapad and unfried papad (not served for consumption) such as Jeera papad, Red Chili papad, Green chilli papad, Rice papad, Pauapapad, Udadpapad, Mung papad and Black pepper papad, all produced by using the same machinery.

2. The applicant has provided the manufacturing process of the un-fried papad as follows:

(i) The raw materials required are wheat flour, rice flour, salt, various spices powder, hing, lentil beans powder, papadkhar and oil.

(ii) The stages of production process are as follows:

Mixing of raw material: All the raw materials like wheat flour, rice flour, spices, salt, oil and other raw material are mixed with water in their unique proportion in the mixture machine for approximately 20 minutes until all the flours are equally mixed up with each other. The mixed flour is collected in various SS trolley called Batch.

Cooking of mixed material: The batch is sent for cooking, where the batch is emptied in the cooking machine. After cooking the batch, it comes in the form of Hot Dough thick sheet. Then apply oil on both the surface of thick sheet. Then release the sheet on papad making machine.

Sheeting: Thick sheet comes to roller to convert it into Thin Sheet of Dough.

Cutting: This sheet enters into the forming or shaping machine where there are various types of forming rollers. The rollers cut the sheet in the desired size and shape and send the sheet to the Drying Machine.



Drying: The sorted papad are then send to the continuous Dryer where the papad are dried upto 2 hours with the help of the Dryer machine.

Packing: The final papad comes out of the Dryer and then they are manually inspected and send to the packing department.

3. The applicant has submitted the manufacturing process of the puripapad as follows:

- (i) The raw materials required are wheat flour, aata, rava, salt, sago starch(for flour binding), papadkhar and oil.
- (ii) The stages of production process are as under:

Mixing of raw material: All the wheat flour, aata, rava, salt and oil are mixed in their unique proportion in the mixture machine for approximately 20 minutes until all the flours are equally mixed up with each other. The mixed flour is collected in various bags called batch.

Cooking of mixed material: The batch is sent for cooking, where the batch is emptied in cooking machine. The batch is cooked with water and then dough is made.

Sheeting: The dough is released to the sheeting machine for further process where the dough converts into double sheets and the sheet enters into the forming or shaping machine.

Cutting: The formed sheets pass through various types of forming rollers. The rollers cut the sheet in the desired size and shape and send the sheet to the Drying Separating machine.

Drying: The sorted puripapad is then sent to the Continuous Dryer where it is dried up to 3 to 4 hours and then sent to shifter through conveying system.

Packing: The final product puripapad comes out of the shifter and then they are manually inspected and sent to the packing department.

4. The applicant has further submitted as follows:

- (i) On the basis of production process, raw material used, HSN analysis, trade parlance etc., they contend that their product Papad is an Indian food prepared mainly with the ingredients like flour, spices, salt, oil etc. This product is unfried and it is not a cooked food. Further it is not an instant food eatable for human consumption. Consumer needs to fry or roast the product to make it ready for consumption.
- (ii) As per rules of interpretation for classification of goods under HSN, specific heading will prevail over general heading. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes.
- (iii) Chapter 19 of HSN classification under GST has the heading "Preparations of cereals, flour, starch or milk; pastry cooks' products". Under Chapter 19, HSN 1905 states - "Papad, by whatever name it is



known, except when served for consumption.” Here the term of classification is clear. There are two conditions for any product to be classifiable under this HSN i.e. 1. It is Papad by whatever name it is known. 2. It is not served for consumption. Hence the classification itself accepts that Papads are known by varieties of names and it shall remain papad even if known by any other name.

Question on which Advance Ruling sought:

5. What will be the classification of the goods intended to be produced such as Puripapad and Unfried papad?

Personal hearing:

6. Shri Brijesh Thakar appeared for the hearing (Video conferencing) on 15-6-21 and reiterated the contents of the application.

FINDINGS:

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and GGST Act, 2017 are in *parimateria* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the GGST Act.

8. We have carefully considered all the submissions made by the applicant. The applicant has submitted that main ingredients of their goods are wheat flour, aata, rava, salt, sago starch (for flour binding), papadkhar and oiletc. for ‘different shape and size papad’ whereas for ‘puripapad’, the main ingredients are wheat flour, aata, rava, salt, sago starch(for flour binding), papadkhar and oil. The applicant submits that their products merit HSN 1905. The Chapter Heading 1905 reads as follows:

1905 BREAD, PASTRY, CAKES, BISCUITS AND OTHER BAKERS' WARES, WHETHER OR NOT CONTAINING COCOA; COMMUNION WAFERS, EMPTY CACHETS OF A KIND SUITABLE FOR PHARMACEUTICAL USE, SEALING WAFERS, RICE PAPER AND SIMILAR PRODUCTS

1905 10 00 - Crisp bread -
1905 20 00 - Gingerbread and the like -

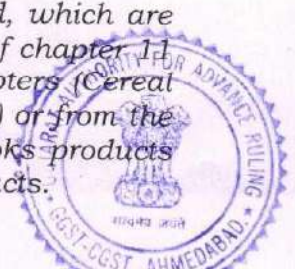
Sweet biscuits; waffles and wafers:
1905 31 00 -- Sweet biscuits -
1905 32 - Waffles and wafers:

--- Communion wafers:
1905 32 11 --- Coated with chocolate or containing chocolate -
1905 32 19 --- Other -
1905 32 90 --- Other -
1905 40 00 - Rusks, toasted bread and similar toasted products

1905 90 -Other:
1905 90 10--- Pastries and cakes -
1905 90 20--- Biscuits not elsewhere specified or included -
1905 90 30 --- Extruded or expanded products, savoury or salted
1905 90 40 --- Papad.
1905 90 90 --- Other

The General NOTES of HSN of Ch. 19 are as under:

This chapter covers a number of preparations, generally used for food, which are made either directly from the cereals of chapter 10, from the products of chapter 11 or from food flour, meal and powder of vegetables origin of other chapters (Cereal flour, groats and meal, starch, fruit vegetables flour, meal and powder) or from the goods of headings 04.01 to 04.04. The chapter also covers pastrycooks products and biscuits even when not containing flour, starch or other cereal products.



9. The ingredients of the subject goods are covered under Chapter 10 and 11 of Customs Tariff Act. The question remains whether the said Goods of the applicant can be termed as 'Papad'. The product 'Papad' is an eatable item, originated and mainly consumed in India. We find that for determination of the correct classification of any product, ingredients used in the manufacture of the said product are a decisive factor. In the case of *Manilal Commodities Pvt. Ltd. Vs. Collector of Customs [1992-59-ELT-189-Tribunal]*, the H'ble Tribunal was of the view that the classification on the basis of predominant contents is generally accepted as proper test. Further, H'ble Allahabad High Court in the case of *Commissioner of Customs, C.G.O. Vs. Sonam International [2012-275-ELT-326-ALL]* upheld that assessment of goods with regard to payment of customs duty is to be made based on contents involved.

10. The entry No. 96 of Not. No. 02/2017- CT (rate) dated 28-6-17 has description of goods which reads as under: *Papad by whatever name it is known, except when served for consumption*. Therefore it can be deduced that all types of "Papad" as per trade/common parlance name are covered under the said entry. In the matters of classification of goods under taxation statutes, all the judicial forums, including the Apex Court, have stressed upon the importance of the identity of the goods in common parlance and there is a plethora of case laws which hold that for classification of goods under statutes for taxation of commercial supplies thereof, the primary test is their identity in the market, or in other words, their common parlance in the market. The Hon'ble Supreme Court in the case of *CCE, New Delhi v. Connaught Plaza Restaurant (P) Ltd. [2012 (286) E.L.T. 321 (S.C.)]* has held that,

"Classification - Common parlance test - It is extension of general principle of interpretation of statutes for deciphering mind of law maker - It is attempt to discover intention of legislature from language used by it, keeping in mind, that language is at best imperfect instrument for expression of actual human thoughts - In absence of statutory definition in precise terms, it is construction of words, entries and items in taxing statutes in terms of their commercial or trade understanding, or according to their popular meaning - It operates on standard of average reasonable person who is not expected to be aware of technical details of goods - It is construction in sense that people conversant with subject-matter of statute, attribute to it - Rigid interpretation in terms of scientific and technical meanings is to be avoided - However, when legislature has provided a statutory definition of particular entry, word or item in specific, scientific or technical terms, then, interpretation ought to be in accordance with that meaning and not according to common parlance. [paras 18, 31, 34]"

10.1 The Hon'ble Supreme Court of India in case of *CCE, Nagpur v. Shree Baidyanath Ayurved Bhawan Ltd. [2009 (237) E.L.T. 225 (S.C.)]* has held that, *Common parlance test continues to be one of the determinative tests for classification of a product whether medicament or cosmetic. What is important to be seen is how the consumer looks at a product and what his perception in respect of such product is. The user's understanding is a strong factor in determination of classification of the products".*

11. It may be easier for the people to say whether a product is or is not 'Papad' than to define what 'Papad' is. However, when one refers to the product 'Papad', the product which comes into mind generally has the following main characteristics -

- (i) The ingredients of Papad are flours, mainly of pulses, rice, sago and other cereals in which edible oil, salt, Papadkhar, asafoetida and other spices (black pepper etc.) are added.
- (ii) The Dough is prepared from the ingredients. The dough is divided in small pieces, out of which thin, wafer like product is made, which is called Papad.
- (iii) Papad can be eaten either after roasting or after frying, but not in uncooked form.
- (iv) Papad becomes crispy after roasting or frying. People savor the Papad, only when Papad is crispy.
- (v) Papad is an accomplishment to Indian meal.



12. The subject goods are thin and wafer like product. At this stage, the product is not ready for consumption. Traditionally Papad has been prepared manually, in round shape. However, when ingredients and process are similar to 'papad', then the product in question is nothing but a kind of 'papad' irrespective of their shape and size.

13. Now would it be proper to group the subject goods which are having Round shape, manufactured by using ingredient of cereal flour and the products having the same characteristic and uses but different shapes and sizes. We find that for classification of product, the ingredient, uses and common parlance test is decisive factor and not the name. In this regard, we rely upon the following judgements on the subject matter:

- (i) *Hon'ble Supreme Court of India in case of Shiv Shakti Gold Finger Vs. Assisstant Commissioner, Commercial Tax, Jaipur -(1996) 9 SCC 514 wherein Honourable Supreme Court has clearly observed and held that irrespective of the shape of PAPAD and irrespective of ingredients used, the PAPAD still remains PAPAD.*
- (ii) *In the case of State of Karnataka Vs. Vasavamba Stores -[2013] 60 VST 19 (Karn.), Honourable Karnataka High Court has clearly dealt with the issue whether Fryums in an uncooked/unfried form sold would qualify as PAPAD and it has been held by Honourable Karnataka High Court that FRYUMS fall under the entry of PAPAD irrespective of their shapes and sizes and irrespective of the ingredients used.*
- (iii) *In M/s. Avadh Food Products Vs. State of Gujarat -First Appeal No. 1/2015 read with Rectification Application No. 31/2015 in First Appeal No. 1/2015Dt;-03/07/2015 reported in 2015 GSTB -II -405 and in M/s. Swethin Food Products Vs. State of Gujarat -2016 GSTB -I 296, Honourable Tribunal has clearly held that Fryums are nothing but PAPAD falling under entry 9(2) in schedule I to the GVAT Act and exempt from payment of tax.*

14. All the above decisions are applicable to the issue at hand, as said goods are of different shapes and sizes but similar in respect of the ingredients, manufacturing process and use. We hold that due to advancement of technology, papad does not limit to the same age old traditional round shaped papad but can be in any desired shape and size. In the old era, usually 'papad' was manufactured manually, therefore it was easy for them to manufacture the Round Shape papad. In the modern era, by the advent of technology, the product is being manufactured by machines and dies of different shape and size is used in the machine. Therefore, with the help of dies of various size and shapes, it is convenient to manufacture different shapes and sizes of papad. Further, at entry No. 96 of Notification No. 02/2017-CT (Rate) dated 28-6-17, the description goods is 'Papad, by whatever name it is known, except when served for consumption'

15. We pass the Ruling:

RULING

The subject Goods are classified at HSN 19059040.

(SANJAY SAXENA)

MEMBER (S)

(ARUN RICHARD)

(MEMBER (C))

