



**BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING
for the State of Andhra Pradesh (Goods and Service Tax)**

(Office at O/o Chief Commissioner of State Tax, Govt. of A.P., D NO 5-56, Block-B,
R.K.Spring Valley Apartment, Bunder Road, Edupugallu, Vijayawada,
Andhra Pradesh – 521151)

Present:

Sri Suresh Kishnani (Member) (Central Tax)

Sri S. Ravi Shankar Narayan (Member) (State Tax)

The 20th day of January, 2022
Order /AAAR/AP/03(GST)/2022

1	Name and address of the appellant	M/s. Foods and Inns Limited, 323, Aseptic Progressing Plant, Chittoor- Vellore Road, Gollamadugu Village, Pallur Post, GudipalaMandal, Chittoor District.
2	GSTIN	37AAACF0521C1ZE
3	Date of filing of Form GST ARA-02	02.12.2021
4	Hearing (Virtual)	14.12.2021
5	Authorized Representative	Sri R. Narasimha Murthy
6	Jurisdictional Authority - Centre	The Superintendent of Central Tax, Tirupati Division, Chittoor II Range

(Under Section 101 of the Central Goods and Service Tax Act and the Andhra Pradesh Goods and Service Tax Act).

At the outset, we would like to make it clear that the provisions of both the CGST Act and the APGST 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 APGST Act.

The present appeal has been filed under Section 100 of the Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017 [herein after referred to as "the CGST Act and APGST Act"] by M/s. Foods and Inns Limited (herein after referred to as the "Appellant") against the Advance Ruling No. AAR No.16/AP/GST/2021 dated 07.07.2021 issued by the Authority for Advance Ruling, Andhra Pradesh.

1. Background of the Case:

- 1.1** The Appellant, M/s Foods and Inns Limited is a Public Limited Company, engaged in the business of supplying of mango pulp/puree within India including merchant export. The manufacturing process of mango pulp/puree is detailed hereunder:
The Appellant procures selected varieties of fresh mango fruits and transport them to the fruit processing plant. The fruits are inspected, graded, washed and

sent to the controlled ripening chambers. The fully Ripened Mango Fruits are then washed, blanched, pulped, deseeded, centrifuged, homogenized, and thermally processed. The preparation process includes cutting, de-stoning, refining and packing. The refined pulp/puree is packed in cans, hermetically sealed and retorted. Such extracted Mango Pulp/Puree will be sold by the applicant.

1.2. The Appellant sought clarification with regard to classification of the product and the rate payable thereon. The Appellant had filed an application for Advance Ruling before the Authority for Advance Ruling on the following questions:

Question: Can the Mango Pulp/puree be treated as fresh fruit and exemption be claimed on it? If not whether the mango pulp/puree falls under the heading 20079910 or 0804 or 2008?

Question: What is the rate of tax payable on outward supplies of Mango fruit Pulp/Puree under the GST Act?

The Authority for Advance Ruling Andhra Pradesh in its orders in **AAR No.16/AP/GST/2021 dated 07.07.2021** held:

- Mango Pulp/Puree shall neither be treated as a fresh fruit nor be classified under headings 20079910 or 0804 or 2008.
- 'Mango pulp/puree', under the entry no. 453 of Schedule-III of Notification No.1/2017-Central Tax (Rate) dt: 28.06.2017 attracts the tax rate of 18%.

Aggrieved by the impugned order, the appellant has filed the present appeal on the following grounds.

2. Grounds of Appeal:

2 A. Classification of the product 'Mango Pulp/Puree':

2.1 The appellant called for attention towards an observation made in the impugned order that the Chapter 0804 not only covers Edible fruit and nuts but also includes chilled fruits and nuts in the same heading. However, the present product being pulp, the said entry is not applicable to the product under consideration. The Appellant submitted that the product being manufactured, i.e., mango pulp is not merely fresh pulp or dried, but it is cooked in the sense the pulp is subject to pre-heating to the tune of 60 to 80 degrees and also sterilized before packing. In view of the above, the contention of the original authority in discarding the classification under Chapter 0804 is in tune with the chapter notes.

2.2 In response to the above, the Appellant submits that the product Mango Pulp is specifically covered under Chapter Heading 0804. However, the present product is not merely fresh fruit or dried fruit. As already submitted, the mango pulp is processed by pre-heating the product to the tune of 60 to 80 degrees and also sterilized before packing. In view of the above, the Appellant alternatively requested the classification of the product under Chapter Heading 2007 in view of the following contentions:

a. The product exported by the Appellant is classified by the Customs under Chapter Heading 2007. Therefore, the product under question specifically gets covered under the Chapter Heading 2007 as Fruit Puree obtained by cooking. In view of the above, the product is liable to be classified under 2007 9910.

b. Further, Chapter Heading 2007 includes products obtained by cooking including purees. The Appellant draws attention to Chapter Note 5 to Chapter 20, according to which the expression-"obtained by cooking" means obtained by heat treatment at atmospheric pressure or under reduced pressure to increase the viscosity of a product through reduction of water content or other means. In the instant case, the pulp is heated through a temperature of 60 to 80 degrees for increasing the viscosity and thus, the process is nothing but cooking.

c. The Appellant further submits that technically there is no difference between puree and pulp. In this connection, the Appellant draws attention to Office Memorandum dated 6th October, 2021 issued by the Ministry of Food Processing Industries, which clarifies that Mango Pulp and Puree are one and the same, classified under Chapter 2007.

2.3 In the impugned order, it was contended that mango pulp/puree is fruit paste and thus, Chapter Heading 2007 is not applicable to the present case. In response to the above, the Appellant submits the following:

- The contention of the original authority is not proper since the Chapter Heading 2007 itself covers fruit paste and thus, there is no scope for the said paste to exclude from the purview of Chapter 2007.
- The Appellant submits that Chapter Note 2 to Chapter 20 excludes fruit jellies, fruit pastes, sugar coated almonds etc. which are in the form of sugar confectionery. In the instant case, the mango pulp/puree is not sugar confectionery and thus, the exclusion clause is not applicable as sought. Hence, there is error in considering the Chapter Note 2
- Moreover, since mango pulp and puree are one and the same product, it is classifiable under Chapter Heading 2007.

2 B Rate of duty applicable on the Mango Pulp::

The Appellant submits that the product is classifiable under Chapter Heading 2007 and consequently, chargeable to GST @ 12% in terms of SI.No.39 of Schedule II to Notification No.1/2017-CT (Rate) dated 28-6-2017. In view of the above, the rate of 18% as held by the Advance Ruling Authority is not legally correct and proper.

3. Virtual Hearing:

The proceedings of Hearing were conducted through video conference on 14.12.2021. The authorized representative, Sri R.Narasimha Murthy attended and reiterated the submissions already made.

4. Discussion and Findings:

We have gone through the entire submissions made by the appellant along with the Ruling pronounced by the Authority for Advance Ruling. On perusal of the appeal and submission made by the appellant at the time of Hearing, it is observed that the main issue of contention is the classification of the product 'Mango Pulp/Puree' and its taxability thereon.

4A Classification of the product Mango Pulp/Puree:

4.1 The Appellant in paragraph 2.1 of the grounds of appeal, has contended that chapter 08 covers only the "Edible fruit and nuts and also chilled fruits and nuts" and the said entry 0804 is not applicable to the product under consideration, 'Mango Pulp'.

In this context, it is pertinent to note that the Explanation to the Rate Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 reads as under:

"For the purposes of this Notification: ...

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification."

Therefore, while the Rate Notification under GST provides the rate of tax on goods and services, in order to interpret these Rate Notifications for purposes of levy of GST, one has to read the same along with the First Schedule (including the Section and Chapter Notes and General Explanatory Notes) of the Customs Tariff Act, 1975 ("Tariff").

Each Section and Chapter under the Tariff is accompanied by the notes known as 'Section Notes' and 'Chapter Notes'. Classification is to be determined only on the basis of description of the heading read with relevant section or Chapter notes.

Coming to the product 'Mango Pulp/Puree', it finds place under chapter heading no. 0804 5040 of the Customs Tariff Act, 1975.

Chapter 8

Tariff Item	Description of goods
0804	Dates, figs, pineapples, avocados, mangoes, and mangosteens, fresh or dried.
0804 50	Guavas, mangoes, and mangosteens
0804 50 40	- Mango Pulp

Chapter 8 deals with "Edible fruit and nuts; peel of citrus fruit or melons". Moreover, there is a specific entry for 'Mango Pulp' as shown above. Whenever a specific entry is available for a product, it has to be adopted in place of the general description. It has been decided by the Hon'ble Supreme Court in **Moorco India Limited Vs. CC 1994 (74) ELT 5 (SC)**. Thus, the principle that specific heading overrides a general heading is well established in tax statutes. The same is applicable as well in the instant case. When there is a specific entry for 'Mango Pulp' in chapter 8, it is to be preferred over other general entries in the subsequent chapters.

4.2 In paragraphs 2.2 and 2.3, the appellant requests the classification of the product under Chapter Heading 2007 and submits that the Mango Pulp is 'Fruit Puree obtained by cooking'. The appellant draws attention to Chapter Note 5 to Chapter 20, according to which the expression-"obtained by cooking" means obtained by heat treatment at atmospheric pressure or under reduced pressure to increase the viscosity of a product through reduction of water content or other means. This Authority disagrees with the contention of the appellant in view of the following.

There is a specific entry for 'Mango pulp' under chapter 8, and it is also mentioned categorically in Notes to chapter 20 that, 'the fruits or nuts prepared or preserved by the processes specified already in Chapter 8 shall not be covered under chapter 20'. The excerpt of the chapter notes is presented below.

"CHAPTER 20 Preparations of vegetables, fruit, nuts or other parts of plants

NOTES: 1. This Chapter does not cover: (a) vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11;"

In this regard this authority opines that the product shall invariably fall under chapter 8.

In the same paragraph, the appellant reiterate that technically there is no difference between 'puree' and 'pulp'. The appellant quoted the reference of Memorandum issued by Ministry of Food Processing Industries, Government of India in F.No.E-12/2/2019-ED dt: 06.10.2021, which states that Mango Pulp and Mango Puree are the same thing from a technical angle. With reference to the nomenclature of the product, this authority does not differ with the above opinion.

But, the Memo cited has been issued for a different purpose, not on the classification of the product or it's chapter heading. The claim of the appellant in this regard stating that clarification has been issued on the tariff code of the product is out of place.

4B Rate of duty applicable on the Mango Pulp:

4.3 In paragraph 2B the Appellant claims that the product is classifiable under Chapter Heading 2007 and consequently, chargeable to GST @ 12% in terms of SI.No.39 of Schedule II to Notification No.1/2017-CT (Rate) dated 28-6-2017. Now we examine the applicable rate of tax for the product 'Mango Pulp' in GST

tariff notifications. There are three entries related to 'Mangoes and Mango Products' that find a mention at various schedules, with different tax rates in the tariff notification.

(i) The entry **No.51** of 0804 of the above notification reads as,

0804 "Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh."

The above entry exempts only fresh mangoes from being exigible to tax. It is worthwhile to mention in this context, that there is no dispute with the classification of the product under chapter 8 but the description under entry no.51 of 0804 enlists only fresh Mangoes.

(ii) The tariff rate changes brought about by Notification No. 35/2017 Integrated Tax (Rate) dt: 30.10.2017, amending notification No. 1/2017-Integrated Tax (Rate), dt: 28.06.2017 added the following entries:

"In the said notification-

(A) In Schedule I - 5%,-

After S. No. 30 and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

"30A 0804 Mangoes sliced, dried" ;

(iii) In Schedule II-12%,-

(i) In S. No. 16, in column (3), for the words and brackets "Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried", the words and brackets, "Dates (soft or hard), figs, pineapples, avocados, guavas and mangosteens, dried", shall be substituted"

The above amended notification reveals that **"Mangoes sliced, dried"** are taxable @ **5%-** while it is silent on 'Mango Pulp'.

As there is no specific description of "mango pulp/puree", under GST tariff notification, the entry no. 453 of Schedule -III of Notification No.1/2017-Central Tax (Rate) dt: 28.06.2017 is applicable, which is a residuary entry covering goods which are not specified in Schedules I, II, IV, V, VI of the Notification, attracting the tax rate of 18%.

S.No	Chapter/ Heading/ Sub- heading/ Tariff item	Description of Goods
453	Any chapter	Goods which are not specified in Schedule I, II, IV, V or VI

In view of the foregoing, we rule as under.

ORDER

We hereby modify the Order passed by the Authority for Advance Ruling vide AAR No. 16/AP/GST/2021 Dated 07.07.2021 and hold that the 'Mango Pulp / Puree' is classifiable under **Tariff Item 0804 50 40** and chargeable to GST @ 18%, by virtue of entry No.453 of Schedule III in Notification No. 1/2017 - Central Tax (Rate) Dated 28.06.2017.

Sd/-Suresh Kishnani
Chief Commissioner (Central Tax)
Member

Sd/- S. Ravi Shankar Narayan
Chief Commissioner (State Tax)
Member

// t.c.f.b.o //


Deputy Commissioner (ST)
DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

To

- 1) M/s. Foods and Inns Limited, 323, Aseptic Progressing Plant, Chittor-Vellore Road, Gollamadugu Village, Pallur Post, Gudipala Mandal, Chittor District -517132.
(By Registered Post).

Copy to

1. The Assistant Commissioner of State Tax, Chittor-I Circle, Chittoor Division.
(By Registered Post)
2. The Superintendent of Central Tax, Chittoor II Range, Tirupati Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)
2. The Chief Commissioner of Customs & Central Tax, O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035.A.P. **(By Registered Post).**